

228238

BEFORE THE  
SURFACE TRANSPORTATION BOARD

TOTAL PETROCHEMICALS USA, INC.

Complainant,

v.

CSX TRANSPORTATION, INC.; CAROLINA  
PIEDMONT DIVISION; GEORGIA  
WOODLANDS RAILROAD, LLC; MADISON  
RAILROAD; MOHAWK ADIRONDACK &  
NORTHERN RAILROAD CORP.; NASHVILLE &  
EASTERN RAILROAD CORP.; NEW HOPE &  
IVYLAND RAILROAD; PIONEER VALLEY  
RAILROAD; R.J. CORMAN RAILROAD  
COMPANY (MEMPHIS); SEMINOLE GULF  
RAILWAY L.P.; SEQUATCHIE VALLEY  
RAILROAD COMPANY; AND SOUTH BRANCH  
VALLEY RAILROAD

Defendants.



Docket No. NOR 42121

ENTERED  
Office of Proceedings

NOV 16 2010

Part of  
Public Record

**CSX TRANSPORTATION, INC.'S REPLY IN OPPOSITION TO MOTION TO  
COMPEL OF TOTAL PETROCHEMICALS USA, INC.**

“[T]he parties to SAC cases are cautioned not to attempt to relitigate issues that have been resolved in prior cases.” *General Procedures for Presenting Evidence in Stand Alone Cost Rate Cases*, 5 S.T.B. 441, 446 (2001). Disregarding this admonition, the Motion to Compel (“Motion”) filed by Total Petrochemicals USA, Inc. (“TPI”)<sup>1</sup> seeks to reverse longstanding Board precedent by asking the Board to require Defendant CSX Transportation, Inc. (“CSXT”) to produce internal costing information. The Board has consistently held that such information is outside the scope of proper rate case discovery and has rejected complainants’ efforts to obtain

<sup>1</sup> A motion to compel was filed by M&G Polymers USA, LLC in STB Docket No. 42123 that is nearly identical to TPI’s Motion. CSXT is submitting separate replies to the motions in these two separate proceedings.

discovery of such information on at least seven separate occasions. TPI attempts to obscure the radical and unprecedented nature of its request by miscasting the Board's precedents and claiming that internal costing information would aid it in "consider[ing] the relative costs" of CSXT's rail service and intermodal alternatives (Motion at 5). However, TPI's arguments collapse upon examination. In the first place, TPI's conclusory claim that "Board Precedent Permits Discovery Of CSXT's Internal Costs For the Purpose Of Proving Market Dominance" flatly misstates Board precedent, and is not supported by a single citation to a Board case with such a holding. *Id.* at 6. Contrary to TPI's unsupported assertions, Board precedent is quite clear that a carrier's internal costing data is not discoverable in a SAC case for market dominance or for any other purposes. TPI's Motion fails to note that, in the seminal case addressing a motion to compel production of a carrier's internal costing systems and data, the Board made crystal clear that such information was not discoverable for qualitative or quantitative market dominance (or any other purpose) in a rate case:

The material sought does not appear to be necessary for an evaluation of the jurisdictional revenue-to-variable cost percentage of 49 U.S.C. § 10707(d), the qualitative determination of market dominance, the evaluation of the reasonableness of the rates using stand-alone cost, or the prescription of a maximum rate. . . .

We conclude that the railroads' internal management costing methodologies have not been shown to be relevant to the issues in these [SAC] proceedings.

*Potomac Elec. Power Co. v. CSX Transp., Inc.*, 2 S.T.B. 290, 292, 294 (1997) ("PEPCO") (emphases added). As demonstrated below, this holding alone – which the Board has repeatedly affirmed in the intervening thirteen years, but which TPI utterly fails to address – is dispositive and compels that the Motion be denied. Moreover, TPI's theory that it should be given access to CSXT's internal costing systems and data in order to "compare" CSXT's internal costs to those of other transportation providers ignores the fact that TPI does not have and cannot obtain

internal costs of those other providers. In short, TPI has not come close to justifying its request that the Board reverse over a decade of sound precedent, and the Motion should be denied.

# **I. THE APPLICABLE STANDARD FOR TPI'S REQUEST TO REVERSE BOARD PRECEDENT.**

TPI's simplistic claim that "[t]he Board will grant motions to compel that are reasonably drawn" is incomplete and significantly understates its burden. Motion at 2. As the Board made clear in a decision firmly rejecting a similar motion to compel that argued that a carrier's internal costing data and systems were relevant to market dominance, "we require more than a minimal showing of potential relevancy before we will grant a motion to compel discovery." *Potomac Elec. Power Co. v. CSX Transp., Inc.*, 2 S.T.B. 290, 292 (1997) ("*PEPCO*"). Complainants instead must "demonstrate a real, practical need for the information" they have requested. *Coal Rate Guidelines, Nationwide*, 1 I.C.C.2d 520, 548 (1985) ("*Guidelines*").<sup>2</sup> TPI has not satisfied – and could not satisfy – this burden. Moreover, TPI does not come close to meeting the high standard required of any party seeking "to relitigate issues that have been resolved in prior cases" – namely, to present "new evidence" or "different arguments." *General Procedures for Presenting Evidence in Stand Alone Cost Rate Cases*, 5 S.T.B. at 446 ("Unless new evidence or different arguments are presented, we will adhere to precedent established in prior cases."). TPI's misstatement of Board precedent presents neither new arguments nor new evidence for production of internal costing information and does not obscure the reality: TPI is recycling and rehashing an argument that the Board rejected when it first held that internal railroad costing information was not subject to discovery. *See infra* at 5-7.

---

<sup>2</sup> It is telling that when TPI quotes the *Coal Rate Guidelines* to enumerate essential requirements for a motion to compel, TPI fails to even mention the requirement that the movant show "a real, practical need for the information." *Compare* Motion at 3 *with Guidelines*, 1 I.C.C.2d at 548.

TPI's current Motion is not the first time that it has disregarded the bedrock requirement that a complainant "demonstrate a real, practical need for the information" it requests in discovery. *Guidelines*, 1 I.C.C.2d at 548. Throughout this litigation TPI has made indiscriminately sweeping and oppressively burdensome discovery demands that often have little to no relationship to the development of relevant evidence in a Stand Alone Cost proceeding. It is worth noting that TPI is moving to compel production of documents responsive to its seventh set of discovery requests,<sup>3</sup> and that at the time TPI filed the Seventh Set of Discovery Requests, it had already posed 870 discovery requests including subparts.<sup>4</sup> Nearly all of these discovery requests demanded information for virtually the entire CSXT system.<sup>5</sup> Furthermore, many of TPI's requests have gone far beyond the scope of properly discoverable evidence in this case. To take a few examples, TPI has:

- Demanded production of the entire highly confidential discovery and evidentiary record in a different case, *see* Request for Production No. 152 (Ex. 1 at 124);
- Demanded that CSXT give TPI "working copies" of over a dozen separate computer programs, *see* Request for Production Nos. 26, 28, 154 (Ex. 1 at 42-44, 126-27);
- Posed a six-part interrogatory demanding extensive information on CSX's relationships with one hundred forty-five different railroads and a companion six-part request for production demanding "all documents" related to CSXT's interactions with these railroads, *see* Interrogatory No. 6 & Request for Production No. 17 (Ex. 1 at 13-14; 34-35); and

---

<sup>3</sup> TPI's Seventh Discovery Requests were served on October 11 – a Federal holiday four days before the scheduled close of discovery.

<sup>4</sup> *See, e.g.*, CSXT Responses and Objections to TPI's First Set of Requests for Admission, Interrogatories, and Requests for Production (attached as Ex. 1).

<sup>5</sup> While TPI purports to limit the scope of its discovery requests to "SARR States," it defines "SARR States" to include 99.7% of the CSXT system in the United States. The only U.S. state in which CSXT operates that is not one of TPI's "SARR States" is Connecticut, in which CSXT operates less than 70 miles of track. *See* CSXT Responses and Objections to TPI's First Set of Requests for Admission, Interrogatories, and Requests for Production at 2 (attached as Ex. 1).

- Demanded that CSXT give TPI “an unredacted and fully executed copy of CSXT’s Positive Train Control Implementation Plan” – *i.e.*, that CSXT give TPI the Sensitive Security Information that CSXT redacted from the publicly available version of the plan. *See* Request for Production No. 148 (Ex. 1 at 122).<sup>6</sup>

While discovery in a SAC case always places significant burdens on the defendant railroad, TPI’s discovery requests are vastly broader and more burdensome than those posed by the complainants in any previous case in which CSXT has been involved.<sup>7</sup> CSXT has devoted considerable time, energy, and resources to accommodate TPI’s extensive and exacting demands.<sup>8</sup> CSXT has done so in an effort to compromise and minimize disputes and despite its considerable doubts as to whether TPI actually plans to use much of the requested material in the preparation of its evidence in this case. But where TPI has plainly asked for information far outside the limits of proper SAC case discovery – as it has with its current demand for internal costing information – CSXT has refused to produce that information. The Board should not countenance TPI’s continuing efforts to demand that information be produced to it without demonstrating a real practical need for that information.

## **II. BOARD PRECEDENT CLEARLY HOLDS THAT INTERNAL COST DATA IS NOT DISCOVERABLE FOR MARKET DOMINANCE OR OTHER PURPOSES.**

It is well settled that internal railroad costing information is not discoverable for any purpose in rate reasonableness proceedings. TPI’s insistence that the Board’s previous

---

<sup>6</sup> Such a disclosure would violate 49 C.F.R. Parts 15 and 1520’s regulations protecting against unauthorized disclosure of sensitive security information.

<sup>7</sup> The only case in which comparable discovery requests have been served by the complainant is M&G Polymers USA, LLC, STB Docket No. 42123. M&G, which is represented by the same counsel and advised by the same economic consulting firm as TPI, has posed discovery requests virtually identical to TPI’s.

<sup>8</sup> To date CSXT has produced 79 DVDs and two external hard drives containing approximately 275 gigabytes of electronic data and 45,629 pages of documents in response to TPI’s discovery requests.

...

...

...

...

...

...

rulings in this area have “concerned the use of the information for rate reasonableness purposes, not market dominance” is a blatant misrepresentation of those decisions. Motion at 6.

As the Board has summarized, “a well-established line of precedent” – including at least seven separate decisions over the last thirteen years – holds that internal management costing systems (and internal profitability assessments) are not discoverable for any purpose in rate reasonableness proceedings. *Entergy Arkansas, Inc. et al. v. Union Pacific R.R. Co. et al.*, STB Docket No. 42104, at 4 (May 7, 2008).<sup>9</sup> Importantly – and contrary to TPI’s representations – the Board has consistently held that internal costing information is irrelevant to market dominance (as well as to rate reasonableness). For example, in *PEPCO*, the complainant sought access to CSXT’s internal management costing system, claiming that internal costing data was relevant to quantitative market dominance, the development of stand-alone costs, and qualitative market dominance. *See* 2 S.T.B. at 291. The Board rejected each of these arguments. *See id.* at 292-94. Significantly, *PEPCO*’s argument that CSXT’s internal costing system was relevant to qualitative market dominance is almost identical to TPI’s argument here – *PEPCO* claimed that internal costs could show that a railroad’s profit margin “‘demonstrate[s] that competition does not pose a very effective constraint’ on the rates charged by the railroads.” *See id.* at 294.<sup>10</sup> The Board rejected this argument expressly and unequivocally, holding that “we do

---

<sup>9</sup> *See Kansas City Power & Light Co. v. Union Pac. R.R. Co.*, STB Docket No. 42095, at 2 (Feb. 15, 2006) (“*KCP&L*”); *Northern States Power Co. Minnesota d/b/a Xcel Energy v. Union Pacific R.R. Co.*, STB Docket No. 42059, at 8-9 (May 24, 2002); *Texas Mun. Power Agency v. Burlington No. & Santa Fe Ry. Co.*, STB Docket No. 42056, at 3-4 & n.8 (Feb. 9, 2001) (“*TMPA*”); *Minnesota Power, Inc. v. Duluth, Missabe & Iron Range Ry. Co.*, 4 S.T.B. 64, 73 (1999) (“*Minnesota Power*”); *Arizona Pub. Serv. Co. v. Atchison, Topeka & Santa Fe Ry. Co.*, 2 S.T.B. 367, 371-72 (1997) (“*APS*”); *Potomac Elec. Power Co. v. CSX Transp., Inc.*, 2 S.T.B. 290, 292-94 (1997) (“*PEPCO*”).

<sup>10</sup> TPI’s halfhearted attempt to distinguish *PEPCO* consists of little more than an erroneous assertion that *PEPCO* is “inapposite.” Motion at 7. In fact, *PEPCO*’s argument that evidence of a railroad’s internal costs could prove that its rates were not effectively constrained by

not use rate-cost relationships as a basis for qualitative market dominance determinations.” *Id.* The Board also rejected PEPCO’s claims that internal costing systems would be relevant to quantitative market dominance; the Board held that the Uniform Rail Costing System (“URCS”) was the measure of variable costs in rate proceedings, and that outputs from a railroad’s internal costing system could not be substituted for URCS costs. *See id.* at 292-93.

The Board’s subsequent decisions have enforced *PEPCO*’s holding that internal railroad costing systems are not discoverable for any purpose. For example, in *Arizona Public Service Co.*, the Board made clear that it “would not use a carrier’s internal costing system for any purpose in our analysis and decision.” 2 S.T.B. at 372 (emphasis added). Similar blanket pronouncements were made in *TMPA*,<sup>11</sup> *KCP&L*,<sup>12</sup> and *Minnesota Power*.<sup>13</sup> In short, the Board’s clear and consistently reaffirmed holding that internal management costing systems are not discoverable for any purpose in rate reasonableness proceedings is as well-settled a proposition as almost any other Board precedent.

TPI’s mistaken assertion that this long line of precedent only addressed the relevance of internal costing information to rate reasonableness is apparently predicated in part

---

transportation alternatives mirrors TPI’s argument here. *Compare PEPCO* at 294 (quoting PEPCO argument that internal costs “may help show that a considerably lower rate would still represent very desirable business and thus demonstrate that competition does not pose a very effective constraint” on rates) *with* TPI Motion at 5 (“TPI has sought discovery of CSXT’s internal costs in order to demonstrate that CSXT operates at a large cost advantage relative to the transload options that CSXT has claimed are effective competitive constraints.”).

<sup>11</sup> *See TMPA*, at 3 n.8 (“Because our Uniform Railroad Costing System (URCS) is the exclusive methodology for developing costs in a rail rate complaint proceeding, proprietary costing systems are irrelevant.”).

<sup>12</sup> *See KCP&L*, at 2 (“Generally, it is contrary to Board precedent to require a party to produce internal management costing information, because costs in Board proceedings are to be determined using the Board’s Uniform Rail Costing System (URCS).”).

<sup>13</sup> *See Minnesota Power*, 4 S.T.B. at 73 (“DMIR’s costing system and studies produced by that system are not relevant to this proceeding.”).



on a fundamental misunderstanding of the Stand Alone Cost test. TPI seems to believe that URCS costs are used to apply the Stand Alone Cost constraint to determine rate reasonableness, and therefore that any reference to URCS costs in a Board decision denying a motion to compel must mean that the decision only addressed rate reasonableness. For example, TPI claims that, because the discovery request at issue in *Arizona Public Service Company* sought an explanation of how the carrier's internal costing system compared to URCS, the Board's decision that internal costing data was not relevant "for any purpose" in the Board's analysis only concerned the relevance of internal costing information to rate reasonableness. Motion at 6-7. But of course that is not true. URCS system average costs are not used to assess rate reasonableness in a SAC case. Rather, the complainant must produce evidence of the specific stand-alone costs necessary for the SARR to serve the selected traffic group.<sup>14</sup> URCS costs are used in SAC cases to assess quantitative market dominance. Therefore, even if TPI were correct that the Board's *APS* holding that internal costing data was not relevant "for any purpose in our analysis" should be ignored in favor of TPI's hyperconstricted reading limiting the holding to the specific ground for which the complainant sought discovery, the *APS* decision would still foreclose TPI's present argument: the movant in *APS* was indisputably arguing that internal costing information was relevant to market dominance, not to rate reasonableness.<sup>15</sup>

---

<sup>14</sup> Of course, should the Board find the SARR revenues to exceed stand-alone costs, it would then use URCS system average costs in calculating the jurisdictional threshold below which it may not prescribe a rate.

<sup>15</sup> Moreover, the Board's analysis in *Arizona Public Service Co.* included an examination of qualitative market dominance and whether intermodal competition placed an effective competitive constraint on the challenged rail rates. 2 S.T.B. at 374-79. The Board's holding that internal cost information was not relevant for any purpose in its analysis thus plainly contemplated both qualitative and quantitative market dominance.

### III. TPI'S CLAIMED RATIONALE FOR SEEKING INTERNAL COST DATA IS ILLOGICAL.

The only reason TPI puts forth to justify its extraordinary demand for all documents, computer programs, and databases related to CSXT's internal management costing system is that TPI would like to obtain "discovery of CSXT's internal costs in order to demonstrate that CSXT operates at a large cost advantage relative to any intermodal options that CSXT may contend are effective competitive constraints." Motion at 5. This claim makes little sense, because TPI cannot perform such a comparison unless it has the internal costs of other transportation providers – costs that TPI cannot obtain through discovery and that other rail carriers, trucking providers, and transload facility operators certainly would not provide willingly.

The discovery TPI seeks from CSXT is plainly not sufficient to demonstrate a CSXT "cost advantage" over intermodal options. Even if the Board were to reverse years of precedent and grant TPI access to CSXT's internal costing system, TPI could not evaluate (let alone prove) any alleged "cost advantage" for CSXT's rail service over "any intermodal options" without also obtaining the internal costing systems of nonparty providers of those intermodal options. Motion at 5. For example, TPI indicates that it would like to compare CSXT's internal costs for a particular origin-destination pair to a potential rail-truck transloading alternative for that movement in order to assess whether transloading is an effective competitive option. *See id.* at 4-5. But to perform such a comparison, TPI would need to obtain not just CSXT's internal costs, but also (1) internal costs for the nonparty railroad providing rail service to the transload facility; (2) internal costs for the transload facility operator; and (3) internal costs for the trucking operator providing service to the ultimate destination. TPI has no right to obtain internal costing systems from nonparties in discovery (even if discovery in this proceeding were still open, which

it is not).<sup>16</sup> And it defies credulity to think that railroads, trucking companies, and transload facility operators would voluntarily provide highly confidential internal costing information to a shipper like TPI.

Moreover, even if TPI somehow obtained internal costing data from relevant non-party transportation providers, there is no reason to believe that such data would be comparable to those generated by CSXT's internal costing systems. *Cf. PEPCO*, 2 S.T.B. at 293 (noting that railroads' internal costing models are "unique application[s]"). Railroads' internal management costing systems are based on a multitude of assumptions and carrier-specific characteristics, and assumptions and parameters used by CSXT in developing its models are almost certainly different from those used by other transportation providers.<sup>17</sup> As the Board noted in *PEPCO*, permitting use of internal costing models would require the Board and the parties to undertake the "daunting, time-consuming task" of examining and assessing the assumptions and mechanics of each model. *Id.*

Furthermore, the Board held in *PEPCO* that the sort of internal railroad "profitability" analysis that TPI claims it wishes to perform is irrelevant to qualitative market dominance. *PEPCO*, 2 S.T.B. at 294 ("price/cost ratios do not reliably indicate the presence or absence of market dominance"). It should adhere to that precedent here. But even if the Board were to consider railroad costs in the market dominance analysis, the appropriate measure of railroad costs is not costs derived from an internal management costing system, but rather URCS system average costs. As discussed above, the Board's consistent rejection of motions to compel production of internal costing systems has been motivated in part by the fact that "costs in Board

---

<sup>16</sup> See 49 C.F.R. § 1114.26(a) (interrogatories may only be served on other parties); *id.* § 1114.30(a) (requests for production may only be served on other parties).

<sup>17</sup> Indeed, many trucking companies and transload operators may not even have internal costing models.

proceedings are to be determined using the Board's Uniform Rail Costing System." *KCP&L* at 2; *see TMPA* at 3 n.8 ("Because our Uniform Railroad Costing System (URCS) is the exclusive methodology for developing costs in a rail rate complaint proceeding, proprietary costing systems are irrelevant."). Here, if TPI believes that the variable costs of CSXT's rail service over a particular issue movement are somehow relevant to whether CSXT has market dominance over that movement, it is free to use the Board's approved regulatory costing system to calculate those costs.

Finally, TPI attaches one of the documents CSXT produced in response to TPI's discovery requests and argues that it shows the relevance of internal costs to market dominance. *See Motion at 5-6 & Ex. B.* The document does nothing of the kind. {{

---

<sup>18</sup> CSXT's analysis of TPI's competitive options submitted by Gordon Heisler in support of CSXT's Motion for Expedited Determination of Jurisdiction over Challenged Rates does not rely on internal costs in any way. {{

}}

}}

\* \* \*

In sum, in *PEPCO* the Board specifically rejected arguments that internal railroad management costing systems and data are relevant to qualitative market dominance, and since *PEPCO* the Board has repeatedly reaffirmed that a carrier's internal costing information is not relevant (or discoverable) for any purpose in rate reasonableness cases. TPI has not presented any new arguments sufficient to reverse these precedents. Indeed, TPI's claim that it needs CSXT's internal costing information in order to compare CSXT's costs to those of other transportation providers is utterly unpersuasive in light of the fact that TPI cannot obtain the internal costing information from those providers that would be necessary for any such comparison. In any event, if TPI wishes to make market dominance arguments based on the variable costs of CSXT rail service, it is free to use URCS for that purpose.

#### IV. CONCLUSION

For the above reasons, TPI's Motion to Compel should be denied.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "G. Paul Moates", is written over a horizontal line.

G. Paul Moates  
Paul A. Hemmersbaugh  
Matthew J. Warren  
Noah A. Clements  
Sidley Austin LLP  
1501 K Street, N.W.  
Washington, D.C. 20005  
(202) 736-8000  
(202) 736-8711 (fax)

Peter J. Shudtz  
Paul R. Hitchcock  
John P. Patelli  
Kathryn R. Barney  
CSX Transportation, Inc.  
500 Water Street  
Jacksonville, FL 32202

*Counsel to CSX Transportation, Inc.*

Dated: November 15, 2010

## CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of November, 2010, I caused a copy of the foregoing Reply to Motion to Compel to be served on the following parties by first class mail, postage prepaid or more expeditious method of delivery:

Jeffrey O. Moreno  
David E. Benz  
Thompson Hine LLP  
1920 N Street, NW, Suite 800  
Washington, DC 20036

G.R. Abernathy, President  
Sequatchie Valley Railroad Company  
120 Soulard Square  
Bridgeport, AL 35740

Lucinda K. Butler, Director  
South Branch Valley Railroad  
120 Water Plant Drive  
Moorefield, WV 26836

Thomas J. Litwiler  
Fletcher & Sippel LLC  
Suite 920  
29 North Wacker Drive  
Chicago, IL 60606-2832

Lamont Jones, General Manager  
Carolina Piedmont Division  
268 E. Main Street  
Laurens, SC 29360

Paul G. Nichini, President  
New Hope & Ivyland Railroad  
32 West Bridge Street  
New Hope, PA 18938

David W. Lawrence  
501 Park Avenue, Suite A  
Lebanon, TN 37087

Thomas Burden, General Manager  
Georgia Woodlands Railroad, LLC  
P.O. Box 549  
Washington, GA 30673

Jeff Collins, General Manager  
Mohawk, Adirondack & Northern Railroad Corp.  
1 Mill Street, Suite 101  
Batavia, NY 14020

Cathy S. Hale, Chief Executive Officer  
Madison Railroad  
City of Madison Port Authority  
1121 W. JPG Woodfill Road #216  
Madison, IN 47250

Joe Martin, Division Manager  
R.J. Corman Railroad Company (Memphis)  
P.O. Box 337  
Guthrie, KY 42234

Bernard M. Reagan, Senior Vice President  
Seminole Gulf Railway L.P.  
900 W.C. Owens Avenue  
Clewiston, FL 33440

  
Eva Mozena Brandon

# EXHIBIT 1



**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

M & G POLYMERS USA, LLC  Complainant  v.  CSX TRANSPORTATION, INC.  Defendant	Docket No. NOR 42123
---	----------------------

**DEFENDANT'S RESPONSES AND OBJECTIONS TO COMPLAINANT'S FIRST  
REQUESTS FOR ADMISSION, INTERROGATORIES, AND REQUESTS FOR  
PRODUCTION OF DOCUMENTS**

Pursuant to 49 C.F.R. Part 1114 and other applicable rules and authority, CSX Transportation, Inc. ("CSXT"), through undersigned counsel, responds as follows to Complainant M & G Polymers USA, LLC's ("M&G's") First Requests for Admission, Interrogatories, and Requests for Production of Documents (the "Discovery Requests").

**GENERAL OBJECTIONS**

CSXT's General Objections, as set forth herein, are to be considered objections to each of the specific interrogatories and document requests (including subparts) that follow.

CSXT's objections shall not waive or prejudice any objections that it may later assert.

1. CSXT objects to the gargantuan number and immense scope of M&G's discovery requests, which are vastly overbroad, unduly burdensome, and grossly unreasonable. M&G has posed 922 separate discovery requests including subparts. Indeed, accounting for requests where M&G has demanded separate responses for each Issue Movement or specified short line railroad, M&G has made no fewer than 2056 separate requests! To make matters worse, many of M&G's Discovery Requests have a breathtakingly expansive scope. M&G's Discovery Requests are replete with sweeping, overbroad demands for materials that often have little or no relevance to

the subject matter of this case – from demanding that CSXT produce no fewer than thirteen different computer models to insisting on access to the highly confidential discovery record in a different case. In short, M&G’s failure to limit its discovery demands to a reasonable scope is abusive and unduly burdensome, and CSXT objects to M&G’s unreasonable and oppressive demands.

2. CSXT objects to any and all definitions and/or instructions to the extent that the definitions and instructions either seek to expand upon or conflict with 49 C.F.R. Part 1114, Subpart B. Further, CSXT objects to these Discovery Requests to the extent that they seek to impose obligations on CSXT that are greater than, or are inconsistent with, those imposed under 49 C.F.R. Part 1114, Subpart B.

3. CSXT objects to each and every Discovery Request to the extent that it seeks information protected by the attorney-client privilege, the attorney work-product doctrine, or any other applicable privilege, exemption, or protection from discovery or disclosure. In the event that any such information is inadvertently produced or provided, and such information is the proper subject of the attorney-client privilege, the attorney work-product doctrine and/or other applicable privilege, exemption, or protection, such disclosure is not to be construed as a waiver of any of these privileges, exemptions, or protections. CSXT reserves the right to demand that such inadvertently produced privileged information be returned to it and that all copies in M&G’s possession, and that of its counsel, consultants, subsidiaries or other agents, be destroyed.

4. CSXT objects to each and every Discovery Request to the extent that it seeks production of information or data that is not relevant to the subject matter at issue in this proceeding and/or not reasonably calculated to lead to the discovery of admissible evidence.

5. CSXT objects to each and every Discovery Request requesting that CSXT produce “all” responsive information. For those requests to which it is obliged to respond, CSXT will produce such responsive non-privileged information or documentation as it is able to locate or identify in a reasonable search.

6. CSXT objects to each and every Discovery Request to the extent that it would require CSXT to perform a “special study” to derive the requested information.

7. CSXT objects to each and every Discovery Request to the extent that it is: a) overly broad; b) impermissibly vague or ambiguous, and fails to describe with reasonable particularity the information sought; or c) imposes undue burdens that outweigh any probative value the information sought may have in this proceeding.

8. CSXT objects to each and every Discovery Request to the extent that it purports to request information that is already in the possession of M&G. Further, CSXT objects to each and every Discovery Request to the extent that it seeks disclosure of information that is readily available or accessible to M&G.

9. CSXT objects to each and every Discovery Request to the extent that it purports to request information and data that is sensitive security information (“SSI”), classified or otherwise prohibited from disclosure, or documents whose public release could jeopardize the safety of the public and/or CSXT employees. Subject to and without waiving this objection, unless otherwise indicated CSXT will search for and produce non-privileged information or documents which are not SSI, not classified, not prohibited from disclosure, and whose public release would not jeopardize the safety of the public or of CSXT employees.

10. CSXT objects to M&G’s demand that copies of any responsive documents be delivered to the offices of M&G counsel, which is inconsistent with the Board’s rule that a party

producing documents may do so by making them available for inspection. *See* 49 C.F.R. § 1114.30(a)(1). Several of M&G's requests call for documents or data so voluminous that CSXT will make such documents or data available for inspection by M&G counsel or consultants rather than delivering copies to M&G. In its Specific Objections and Responses CSXT has indicated the requests for which it will make documents available for inspection. CSXT reserves its right to designate additional requests for which it will make documents available for inspection rather than delivering copies.

11. CSXT objects to Definition 30 of the Discovery Requests to the extent that it defines CSXT to include all subsidiaries of CSXT, on the grounds that such definition is overbroad and unduly burdensome. CSXT specifically objects to producing data and information for non-wholly owned subsidiaries and for switching and terminal railroad subsidiaries, on the ground that producing responsive information for these entities, to the extent such information exists, would be unduly burdensome and would have little to no relevance to the issues in this proceeding.

12. CSXT objects to M&G's Definition 34 defining "Document" to the extent it seeks to impose obligations broader than, or inconsistent with, those imposed by 49 C.F.R. Part 1114. CSXT objects to M&G's demand that CSXT produce documents in its "prior possession, custody and control." It is both unreasonable and illogical to demand that CSXT produce documents that are not in its current possession, custody, or control. CSXT further objects to the definition of "Document" to the extent it seeks information or data that is privileged, protected by the work product doctrine, or otherwise protected, exempted, or excluded from discovery or disclosure by an applicable privilege, protection, rule, or doctrine. In these Responses, CSXT

will interpret the term “Document” to exclude any data or information that is protected from discovery or disclosure by such privilege, protection, doctrine, or rule.

13. CSXT objects to M&G’s Definition 46 defining “‘Identify’ when referring to a document” to the extent it seeks to impose obligations or requirements beyond, in addition to, or inconsistent with discovery obligations under 49 C.F.R. Part 1114. CSXT has no duty to search for, gather, and catalog every document possibly implicated by an interrogatory with the multiple pieces of information specified as required by the definition. This definition would impose an undue burden that outweighs any relevance or probative value the information sought may have in this proceeding. CSXT will respond to any interrogatory asking it to “identify” particular documents as if it were a request for production of those documents and respond in accordance with 49 C.F.R. § 1114.30.

14. CSXT objects to M&G’s Definition 76 defining “possession, custody, or control” to the extent it seeks to impose obligations or requirements beyond, in addition to, or inconsistent with CSXT’s discovery obligations under 49 C.F.R. Part 1114.

15. CSXT objects to M&G’s Definition 78 defining “related,” “related to,” and “relating to” on the grounds that such definition is overbroad and unduly burdensome.

16. CSXT generally objects to M&G’s Instruction 3 as overbroad, unduly burdensome, and oppressive to the extent that M&G demands that CSXT produce data in accordance with the precise and extensive format and detailed parameters and attributes demanded by M&G – regardless of whether data are actually kept in such format – and that CSXT accompany such data with detailed explanations and descriptions of that data –regardless of whether CSXT actually has records with such explanations and descriptions, and regardless of the extent to which M&G (including its consultants) could readily determine or understand some

or all of the data without further explanations and descriptions. CSXT further objects to Instruction 3 as seeking special studies, which CSXT declines to conduct. In addition, CSXT objects to Instruction 3 as ambiguous, unclear, prolix, and susceptible of multiple inconsistent interpretations and constructions. In response to Instruction 3 and M&G's general requests for data in "computer readable format," CSXT states that, where M&G requests information in computer readable format, CSXT will produce data in a format that it understands to be computer readable (as CSXT interprets that term), to the extent responsive data or information exists and is reasonably available in such a format, and CSXT will provide descriptions of such data to the extent reasonably available. Below CSXT states further objections to specific subparts of Instruction 3.

17. CSXT objects to Instruction 3(a)(i) to provide the "name and description of the source database or other file" from which computer readable information is provided to M&G. CSXT has no duty to undertake to catalog and document its internal systems as such a request would constitute a "special study," *see, e.g., Entergy Ark., Inc. v. Union Pac. R.R. Co.*, STB Docket No. 42104 (May 19, 2008). Moreover, such information would be unduly burdensome to create and is not relevant to any issue in this proceeding, nor is such information necessary to enable M&G to use any information to be provided.

18. CSXT objects to Instruction 3(a)(ii) to provide "[a] description of how the records in the file produced were selected" as seeking information protected by the attorney-client privilege and/or work-product doctrine. Furthermore, such information would be unduly burdensome to create and is not relevant to any issue in this proceeding or necessary to enable M&G to use any information to be provided by CSXT.

19. CSXT objects to Instruction 3(a)(iii) as seeking to impose obligations or requirements beyond, in addition to, or inconsistent with discovery obligations under 49 C.F.R. Part 1114. CSXT has no obligation to undertake to catalog and document its internal systems as such a request would constitute a “special study,” *see, e.g., Entergy Ark., Inc. v. Union Pac. R.R. Co.*, STB Docket No. 42104 (May 19, 2008); such information would be unduly burdensome to create and is not relevant to any issue in this proceeding, nor is such information necessary to enable M&G to use any information to be provided. Moreover, CSXT has no obligation to provide M&G with any “intermediate files” created by CSXT in its effort to provide M&G with responsive information. Production of such files would be duplicative of the information in “final files.” Moreover, any “intermediate files[s]” used to create files produced in this litigation are protected by the work-product doctrine.

20. CSXT objects to Instruction 3(a)(iv) as seeking to impose obligations or requirements beyond, in addition to, or inconsistent with discovery obligations under 49 C.F.R. Part 1114. CSXT further objects to the instruction to produce “[a] relational diagram defining relationships between tables, with all fields. . .” on the grounds that CSXT has no duty to undertake to catalog and document its internal systems as such a request would constitute a “special study,” *see, e.g., Entergy Ark., Inc. v. Union Pac. R.R. Co.*, STB Docket No. 42104 (May 19, 2008); such information would be unduly burdensome to create and is not relevant to any issue in this proceeding, nor is such information necessary to enable M&G to use any information to be provided.

21. CSXT objects to Instruction 3(b) as seeking to impose obligations or requirements beyond, in addition to, or inconsistent with discovery obligations under 49 C.F.R. Part 1114. CSXT has no duty to undertake to catalog and document all computer-readable information

provided to M&G in the unduly complex format specified by M&G. Responsive information provided in computer-readable format will be described to the extent necessary for M&G to use such information.

22. CSXT objects to M&G's Instructions 4, 7, 12, 13, 14, and 15 to the extent they attempt to impose obligations or requirements beyond, in addition to, or inconsistent with CSXT's discovery obligations under 49 C.F.R. Part 1114. CSXT's duties in responding to M&G's discovery requests are governed by the Board's rules, and M&G cannot change or expand those duties by propounding "Instructions."

23. CSXT objects to M&G's failure to limit its requests to a relevant time period as overbroad and unduly burdensome. M&G seeks information that is not relevant to this proceeding and is not reasonably calculated to lead to the production of admissible evidence. Subject to, and without waiving this objection, unless otherwise indicated, CSXT's responses will cover the period from 2008 to the filing of the Complaint.

24. CSXT does not concede the relevance, materiality, competency, or admissibility as evidence of documents or information requested in the Discovery Requests. CSXT reserves its right to object on any ground to the use of the responses herein in this proceeding or in any subsequent appeal, proceeding, action or trial.

### **SPECIFIC OBJECTIONS AND RESPONSES**

In addition to its General Objections (which apply in full to each and every Discovery Request, without further enumeration), below CSXT sets forth Specific Objections and Responses to each Request for Admission, Interrogatory, and Request for Production. CSXT preserves all of its General Objections set forth above, and none of the following Specific



Objections shall waive its General Objections. Nor shall any of CSXT's specific objections limit the scope, breadth, generality, or applicability of those General Objections.

**I. REQUESTS FOR ADMISSION**

**REQUEST FOR ADMISSION NO. 1**

Separately for each of the Challenged Rates identified in Exhibits A and B to M&G's Verified Complaint, admit that each such Challenged Rate exceeds 180 percent of the variable costs of providing the transportation to which the Challenged Rates apply.

**Response:**

CSXT objects to this Request for Admission for the reasons set forth in its General Objections. CSXT also specifically objects to this Request for Admission because it calls for CSXT to perform a special study to assess the variable costs for the 68 Challenged Rates. CSXT also objects because this Request for Admission prematurely and inappropriately demands that CSXT disclose its litigation position before the submission of opening evidence. CSXT further objects to this Request for Admission as calling for a legal conclusion to which no response is necessary. To the extent a response is required, CSXT states that while it appears that most, and perhaps all, of the Challenged Rates may generate an R/VC ratio in excess of 1.8, those ratios cannot be conclusively determined without generating Uniform Rail Costing System ("URCS") costs for each of the movements whose rates are challenged in the Complaint. CSXT is willing to discuss, and consider amending, this response as appropriate when the necessary calculations have been completed and the time is ripe for a response.

**REQUEST FOR ADMISSION NO. 2**

Separately for each of the movements identified in Exhibits A and B to M&G's Verified Complaint, admit that CSXT faces no effective rail competition for the transportation of commodities under the Challenged Rates from Origins to Destinations.

**Response:**

CSXT objects to this Request for Admission for the reasons set forth in its General Objections. CSXT also specifically objects to this Request for Admission because it calls for CSXT to perform a special study to assess rail competition between Origins and Destinations for 68 separate movements. CSXT also objects because this Request for Admission prematurely and inappropriately demands that CSXT disclose its litigation position before the submission of opening evidence. CSXT further objects to this Request for Admission as calling for a legal conclusion to which no response is necessary. To the extent a response is required, CSXT denies Request for Admission No. 2.

**REQUEST FOR ADMISSION NO. 3**

Separately for each of the movements identified in Exhibits A and B to M&G's Verified Complaint, admit that CSXT faces no effective competition from other surface modes (e.g. truck, barge, pipeline) for the transportation of commodities under the Challenged Rates from Origins to Destinations.

**Response:**

CSXT objects to this Request for Admission for the reasons set forth in its General Objections. CSXT also specifically objects to this Request for Admission because it calls for CSXT to perform a special study to assess intermodal competition between Origins and Destinations for 68 separate movements. CSXT also objects because this Request for Admission prematurely and inappropriately demands that CSXT disclose its litigation position before the submission of opening evidence. CSXT further objects to this Request for Admission as calling for a legal conclusion to which no response is necessary. To the extent a response is required, CSXT denies Request for Admission No. 3.

## **II. INTERROGATORIES**

### **INTERROGATORY NO. 1**

If your response to Request for Admission No. 1 was anything other than an unqualified admission for each Challenged Rate in Exhibits A and B to M&G's Verified Complaint, please explain in detail the legal basis for your response, provide the revenue-to-variable cost percentage that CSXT claims each such Challenged Rate produces, and identify all documents that support your response.

#### **Response:**

CSXT objects to this Interrogatory for the reasons set forth in its General Objections.

CSXT also specifically objects to this Interrogatory because it calls for CSXT to perform a special study to assess the variable costs for the Challenged Rates. CSXT also objects because this Interrogatory prematurely and inappropriately demands that CSXT disclose its litigation position before the submission of opening evidence.

### **INTERROGATORY NO. 2**

If your response to Request for Admission No. 2 was anything other than an unqualified admission for each movement in Exhibits A and B to M&G's Verified Complaint, for any such movement for which your response was not an unqualified admission, please identify the specific movement; identify the rail carrier(s) that provide effective rail competition; and describe the effective rail competition that CSXT claims exists for the transportation to which the Challenged Rate applies, the annual volume subject to such competition, and how and why such competition is effective.

#### **Response:**

CSXT objects to this Interrogatory for the reasons set forth in its General Objections.

CSXT also specifically objects to this Interrogatory because it calls for CSXT to perform a special study to assess the effectiveness of rail competition between Origins and Destinations.

CSXT also objects because this Interrogatory prematurely and inappropriately demands that CSXT disclose its litigation position before the submission of opening evidence. Subject to and without waiving these objections and the General Objections, CSXT responds that it will provide

evidence of the effectiveness of rail competition for the transportation to which the Challenged Rates apply at the appropriate time.

**INTERROGATORY NO. 3**

If your response to Request for Admission No. 3 was anything other than an unqualified admission for each movement in Exhibits A and B to M&G's Verified Complaint, for any such movement for which your response was not an unqualified admission, please identify the specific movement; identify any carriers that CSXT contends provide effective competition; and describe the effective competition from other surface modes that CSXT claims exists for the transportation to which the Challenged Rate applies, the annual volume subject to such competition, and how and why such competition is effective.

**Response:**

CSXT objects to this Interrogatory for the reasons set forth in its General Objections. CSXT also specifically objects to this Interrogatory because it calls for CSXT to perform a special study to assess the effectiveness of intermodal competition between Origins and Destinations. CSXT also objects because this Interrogatory prematurely and inappropriately demands that CSXT disclose its litigation position before the submission of opening evidence. Subject to and without waiving these objections and the General Objections, CSXT responds that it will provide evidence of the effectiveness of intermodal competition for the transportation to which the Challenged Rates apply at the appropriate time.

**INTERROGATORY NO. 4**

Please identify, by name, title and address, the person(s) who prepared each answer to these Interrogatories and each response to the foregoing Requests for Admissions, and who reviewed and selected the documents to be produced in response to each of the following Requests for Production.

**Response:**

CSXT specifically objects to this Interrogatory because it calls for the disclosure of privileged and confidential information relating to the preparation of CSXT's responses to M&G's discovery that is protected by the attorney-client privilege and/or the work product

doctrine. CSXT further objects to this Interrogatory as unduly burdensome and overbroad to the extent it asks for CSXT to identify each of the many CSXT personnel and departments who must participate in gathering the massive volumes of documents and data that M&G has requested CSXT to produce. Moreover, this Interrogatory is not reasonably calculated to lead to the discovery of admissible evidence. The identity of the CSXT employees, consultants, and attorneys who have participated in CSXT's response to M&G's discovery is irrelevant to matters at issue in this litigation.

#### **INTERROGATORY NO. 5**

Please provide a complete description of each M&G movement identified on Exhibits A and B to M&G's Verified Complaint by CSXT from Origin to Destination and from Destination to Origin, including, but not limited to, (a) a description of all transportation-related activities at Origin, at Destination, and at all intermediate stations or other points between Origin and Destination; (b) the route(s) used; (c) the railroads involved in each route; and (d) the miles for each route separated by railroad.

#### **Response:**

CSXT specifically objects to this Interrogatory as overbroad and unduly burdensome to the extent it requires a "complete" description and a description of "all transportation-related activities" at Origins, Destinations, and "all intermediate stations or other points between Origin and Destination." CSXT further objects to this Interrogatory to the extent it requires a special study for 68 separate movements that CSXT is not required to conduct. Moreover, CSXT further objects that a number of the origin-destination pairs in the Complaint have not moved any traffic recently, and it is therefore impossible for CSXT to describe "transportation-related activities," "route[s] used," or "railroads involved" for those M&G "movements." Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce business records or other documents from which the answer to this Interrogatory can be derived or ascertained. *See* 49 C.F.R. § 1114.26(b).

## INTERROGATORY NO. 6

Please describe the arrangements between CSXT and each railroad identified in part "f" of the Interrogatory No. 6 regarding all movements handled in whole or in part by CSXT and including, but not limited each railroad identified in part "f" of this Interrogatory No. 6 to:

- a. Whether CSXT sets all rates, fees and surcharges, including the portion of the movement handled by each railroad identified in part "f" of this Interrogatory No. 6, and if not, identify who sets the rates, fees, and surcharges;
- b. Whether the CSXT revenues reported in the traffic and revenue data provided in response to Request for Production No. 20 include or exclude the monies paid to each railroad identified in part "f" of this Interrogatory No. 6 as compensation for its portion of each movement;
- c. Whether a physical interchange of traffic takes place between CSXT and each railroad identified in part "f" of this Interrogatory No. 6, and if so, identify the interchange location(s);
- d. Whether each railroad identified in part "f" of this Interrogatory No. 6 provides its own locomotive power for its portion of each movement or if CSXT power is used; and
- e. Whether each railroad identified in part "f" of this Interrogatory No. 6 provides its own train crew personnel for its portion of each movement or if CSXT train crew personnel are used.
- f. ACWR, AF, AGR, ALAB, AO, AR, ATN, BB, BPRR, BSOR, CALA, CCRA, CEIW, CF, CFE, CFWR, CIND, CKIN, CNUR, CUOH, EARY, ELKR, EPRY, FCEN, FCR, GC, GCK, GMRY, GNRR, IHB, INRD, IORY, ISRR, KCS, KWT, LAL, LIRC, LRS, MAW, MSE, NCYR, NERR, NOPB, NOW, NWR, NYLE, PAL, PBVR, PDRR, RJCC, RJCM, RJCR, RJCW, RSOR, RSR, SAPT, SBVR, SCRF, SCTR, SERCORR, SMW, SQVR, TNHR, TPW, TTIS, TYBR, VRR, WE, WHOE, WNRF, WTNN, WVC, WWRC, WWVA.

### Response:

CSXT specifically objects to this Interrogatory as grossly overbroad and unduly burdensome to the extent it requires a description of "arrangements" regarding "all movements" between CSXT and 75 short line railroads pursuant to which CSXT and each of those numerous railroads conduct transportation services. CSXT also objects to the vague, ambiguous, and

undefined term "arrangements." CSXT further objects to this Interrogatory to the extent it requires a special study that CSXT is not required to conduct. CSXT also objects to part (a) of this Interrogatory calling for "[w]hether CSXT sets all rates, fees and surcharges" as seeking information irrelevant to the development of Stand Alone Cost evidence in this case. Subject to and without waiving these objections and the General Objections, CSXT responds that it will search for and produce business records or other documents from which the answer to this Interrogatory can be derived or ascertained, to the extent that such documents exist and can be located in a reasonable search. *See* 49 C.F.R. § 1114.26(b).

#### INTERROGATORY NO. 7

Interrogatory No. 7 refers to the CSXT rail yards located in the SARR States.

- a. For each of the yards, identify the type of yard, i.e., electronically controlled hump yard or flat switch yard. Also identify the number of shifts operated at each hump yard, and the average number of cars handled over each hump yard per day;
- b. For each of the yards, describe the yard layout, yard signaling, yard switching, and the yard connection to mainline track;
- c. For each of the yards which are hump yards, identify the average number of hazardous material cars handled at each yard on a daily basis that by-pass the hump;
- d. For each of the CSXT rail yards, identify the scheduled switch crew assignments on a daily basis (including the name or designation of each assignment) and the respective duties of each assignment, e.g., switching job, bowl job, hump job, industrial job, etc.;
- e. For each of the switch assignments identified in response to part d. above, please identify the typical number of switch crew members and the number and type of locomotives assigned to each switch service; and
- f. For each of the switch assignments identified in response to part d. above, please state the typical number of hours worked by switch crews in performing their assigned tasks.
- g. For each individual industrial switch job identified in response to part d, above, please identify the following information:

- i. The name or designation of each individual industrial switch job;
  - ii. The typical number of crew members assigned to each identified industrial switch job;
  - iii. Typical number and type of locomotives assigned to each identified industrial switch job;
  - iv. The industries served by each identified industrial switch job; and
  - v. The frequency of service of each identified industrial switch job.
- h. Please identify each of the Local Trains that originate or terminate in each of the yards listed above and for each Local Train please identify the following information:
- i. CSXT's train identification or designation of each Local Train;
  - ii. Typical number of crew members assigned to each identified Local Train;
  - iii. Typical number of loaded and empty cars assigned to each Local Train;
  - iv. Typical trailing length of each identified Local Train;
  - v. Typical trailing weight of each identified Local Train;
  - vi. Typical number and type of locomotives assigned to each Local Train;
  - vii. The route of service for each identified Local Train, and if the Local or Road Train is a turn crew or straight-away crew;
  - viii. The industries served by each identified Local Train; and
  - ix. The frequency of service of each Local Train.
- i. Please describe the security procedures employed at each of the CSXT rail yards.

**Response:**

CSXT objects to this Interrogatory as vague and ambiguous because the term "yard" is not defined. CSXT will interpret "yard" as a railroad facility where a yard crew and/or locomotive has been assigned. CSXT also objects to this Interrogatory to the extent it requires a special study that CSXT is not required to conduct. CSXT further objects to this Interrogatory as overbroad and unduly burdensome — in over 25 subparts it asks for detailed information about nearly every CSXT rail yard in the United States. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce business records or other documents from which the answer to this Interrogatory can be derived or ascertained, to the



extent that such documents exist and can be located in a reasonable search. *See* 49 C.F.R.

§ 1114.26(b).

**INTERROGATORY NO. 8**

Please describe how hazardous materials are handled by CSXT in each of the yards identified in response to Interrogatory No. 7, and specifically describe the procedures used by CSXT to classify railcars containing hazardous materials and if such classification occurs in a separately designated portion of the yards.

**Response:**

CSXT specifically objects to this Interrogatory to the extent it calls for disclosure of Sensitive Security Information ("SSI"). CSXT further objects to this Interrogatory as overbroad and unduly burdensome because it asks for information about nearly every CSXT rail yard in the United States. Subject to and without waiving these objections and the General Objections, CSXT states that it handles hazardous materials in accordance with all applicable federal regulations, including Federal Railroad Administration ("FRA") and Pipeline and Hazardous Materials Safety Administration ("PHMSA") regulations. CSXT will produce any additional policies for handling hazardous materials at these yards that do not constitute SSI to the extent that such policies exist and can be located in a reasonable search.

**INTERROGATORY NO. 9**

Please provide the maximum permissible gross weight on rail ("GWR") per railcar for each CSXT line segment in the SARR States. For all segments having a GWR less than 286,000 lbs. per railcar, please indicate the items and factors that limit the GWR for the identified segments.

**Response:**

Subject to and without waiving the General Objections, CSXT responds that it will produce business records from which the answer to this Interrogatory can be derived or ascertained. *See* 49 C.F.R. § 1114.26(b).

**INTERROGATORY NO. 10**

Please identify any computer programs or models that are currently being or have been used by CSXT in the past three years to simulate a locomotive's and/or a train's performance while moving over a particular route. For all programs and models, identify all the necessary inputs required to run the program.

**Response:**

CSXT specifically objects to the vague and undefined term "computer programs or models." CSXT further objects to the overbroad and unduly burdensome request for all such programs used "within the past three years." Subject to and without waiving these objections and the General Objections, CSXT responds that it has utilized several computer programs or models to simulate locomotive and train performance while moving over a particular route, including but not necessarily limited to Rail Traffic Controller published by Berkeley Simulation Software; Rails 2000 published by CANAC Inc.; Train Dynamics Analyzer published by WABCO; a calculator CSXT developed in-house to analyze chokepoints; and Train Operations Energy Simulator ("TOES").

**INTERROGATORY NO. 11**

Please identify any computer programs or models that are currently being used or have been used by CSXT in the past three years to (a) download locomotive event or similar data from locomotives along any line segment in the SARR States, and/or (b) process locomotive event data for purposes of determining locomotive throttle position and/or fuel consumption.

**Response:**

CSXT specifically objects to the vague and undefined term "computer programs or models." CSXT further objects to the overbroad and unduly burdensome request for all such programs used "within the past three years." Subject to and without waiving these objections and the General Objections, CSXT responds that it has developed a system to download and

process locomotive event recorder data, which is known as the Event Recorder Automated Download system.

**INTERROGATORY NO. 12**

Please identify each scheduled Road Train operating in the SARR states and for each of the identified Road Trains, please identify the following:

- a. CSXT's train identifier or designation of each identified Road Train and the beginning and end points served by each of the identified Road Trains;
- b. State whether the crews are assigned or in pool service. Identify home and away-from-home terminals for each crew district;
- c. The scheduled on-duty and off-duty locations for each crew assigned to the identified Road Trains;
- d. The number of crew members typically assigned per shift to each of the identified Road Trains;
- e. The number and type of locomotives typically assigned to each of the Road Trains;
- f. The number and type of loaded and empty cars typically assigned to each of the Road Trains;
- g. The trailing length for each of the identified Road Trains;
- h. The trailing weight for each of the identified Road Trains;
- i. The scheduled frequency of service for each identified Road Train; and
- j. The scheduled time of departure and arrival at stations served by each of the identified Road Trains.

**Response:**

CSXT objects to this Interrogatory to the extent it requires a special study that CSXT is not required to conduct. CSXT further objects to this Interrogatory as overbroad and unduly burdensome because it asks for detailed operating specifications for every CSXT scheduled Road Train that operates in the United States. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce business records or other documents from which the answer to this Interrogatory can be derived or ascertained, to the extent that such documents exist and can be located in a reasonable search. *See* 49 C.F.R. § 1114.26(b).

**INTERROGATORY NO. 13**

Please identify the location and name of each intermodal terminal or yard located on CSXT's rail lines in the SARR States, and provide the following information for each identified terminal or yard:

- a. Please describe the services CSXT provides at each intermodal terminal or yard identified in response to this interrogatory;
- b. For each terminal or yard, describe the yard and track layout, yard and track signaling, yard switching, and the track connection(s) to mainline track;
- c. If CSXT does not provide services at any of the intermodal terminals or yards, please identify the entity that provides service at each intermodal terminal or yard;
- d. State whether the loading and unloading facilities are owned and/or operated by CSXT and its personnel, or whether by an outside contractor at each facility. If owned or operated by a contractor, please identify lift and other charges contained in contracts for services provided by the contractor(s);
- e. Please describe all CSXT operations at each intermodal terminal or yard, including but not limited to:
  - i. A description of each job assignment at each identified intermodal terminal or yard;
  - ii. The number of shifts assigned per day for each job assignment;
  - iii. The number of train crews assigned at each intermodal terminal or yard including a description of the services provided by each train crew, and;
  - iv. The number of annual lifts performed at each intermodal terminal or yard.
- f. Please describe the security procedures employed at each intermodal terminal or yard located on CSXT rail lines in the SARR States.

**Response:**

CSXT objects to this Interrogatory to the extent it requires a special study that CSXT is not required to conduct. CSXT further objects to subpart (f) to the extent it calls for disclosure of Sensitive Security Information ("SSI"). Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce non-SSI business records or other documents from which the answer to this Interrogatory can be derived or ascertained, to the

extent that such documents exist and can be located in a reasonable search. *See* 49 C.F.R.

§ 1114.26(b).

**INTERROGATORY NO. 14**

Please identify each scheduled Intermodal Train operating in the SARR states and for each of the identified Intermodal Trains, please identify the following:

- a. CSXT's train identifier or designation of each identified Intermodal Train and the beginning and end points served by each of the identified Intermodal Trains;
- b. The scheduled on-duty and off-duty locations for each crew assigned to the identified Intermodal Trains;
- c. The number of crew members typically assigned per shift to each of the identified Intermodal Trains;
- d. The number and type of locomotives typically assigned to each of the Intermodal Trains;
- e. The number and type of loaded and empty cars typically assigned to each of the Intermodal Trains;
- f. The trailing length for each of the identified Intermodal Trains;
- g. The trailing weight for each of the identified Intermodal Trains;
- h. The scheduled frequency of service for each identified Intermodal Train; and
- i. The scheduled time of departure from the initial terminal to scheduled time of arrival at final terminal destination on CSXT for each of the identified Intermodal Trains.

**Response:**

CSXT objects to this Interrogatory to the extent it requires a special study that CSXT is not required to conduct. CSXT further objects to this Interrogatory as overbroad and unduly burdensome because it asks for detailed operating specifications for every CSXT scheduled Intermodal Train that operates in the United States. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce business records or other documents from which the answer to this Interrogatory can be derived or ascertained, to the extent that such documents exist and can be located in a reasonable search. *See* 49 C.F.R.

§ 1114.26(b).

**INTERROGATORY NO. 15**

Please identify the location and name of each Automotive Distribution Center located on CSXT's rail lines in the SARR States, and provide the following information for each identified Automotive Distribution Center:

- a. Please describe the services CSXT provides at each Automotive Distribution Center identified in response to this interrogatory;
- b. If CSXT does not provide services at any of the Automotive Distribution Centers, please identify the entity that provides service at each Automotive Distribution Center;
- c. Please describe CSXT operations at each Automotive Distribution Center, including but not limited to:
  - i. A description of each job assignment at each Automotive Distribution Center;
  - ii. The number of shifts assigned per day for each job assignment, and;
  - iii. The number of train crews assigned at each Automotive Distribution Center including a description of the services provided by each train crew.
- d. Please describe the security procedures employed by CSXT at each of the Automotive Distribution Centers.

**Response:**

CSXT objects to this Interrogatory to the extent it requires a special study that CSXT is not required to conduct. CSXT further objects to subpart (d) to the extent it calls for disclosure of Sensitive Security Information ("SSI"). Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce non-SSI business records or other documents from which the answer to this Interrogatory can be derived or ascertained, to the extent that such documents exist and can be located in a reasonable search. *See* 49 C.F.R. § 1114.26(b).

**INTERROGATORY NO. 16**

Please identify each scheduled Automotive Train operating in the SARR states and for each of the identified Automotive Trains, please identify the following:

- a. CSXT's train identifier or designation of each identified Automotive Train and the beginning and end points served by each of the identified Automotive Trains;
- b. The scheduled on-duty and off-duty locations for each crew assigned to the identified Automotive Trains;
- c. The number of crew members typically assigned per shift to each of the identified Automotive Trains;
- d. The number and type of locomotives typically assigned to each of the Automotive Trains;
- e. The number and type of loaded and empty cars typically assigned to each of the Automotive Trains;
- f. The trailing length for each of the identified Automotive Trains;
- g. The trailing weight for each of the identified Automotive Trains;
- h. The scheduled frequency of service for each identified Automotive Train; and
- i. The scheduled time of departure and arrival at stations served by each of the identified Automotive Trains.

**Response:**

CSXT objects to this Interrogatory to the extent it requires a special study that CSXT is not required to conduct. CSXT further objects to this Interrogatory as overbroad and unduly burdensome because it asks for detailed operating specifications for every CSXT scheduled Automotive Train that operates in the United States. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce business records or other documents from which the answer to this Interrogatory can be derived or ascertained, to the extent that such documents exist and can be located in a reasonable search. *See* 49 C.F.R.

§ 1114.26(b).

**INTERROGATORY NO. 17**

Please identify the locations and names of each TRANSFLO terminal located on CSXT's rail lines in the SARR States, and provide the following information for each identified terminal:

- a. Please describe the services CSXT provides at each TRANSFLO terminal;
- b. If CSXT does not provide services at any TRANSFLO terminal, please identify the entity that provides service at each TRANSFLO terminal;

- c. Please describe CSXT operations at each of the TRANSFLO terminals, including but not limited to:
- i. A description of each job assignment at each TRANSFLO terminal;
  - ii. The number of shifts assigned per day for each job assignment, and;
  - iii. The number of train crews assigned at each TRANSFLO terminal including a description of the services provided by each train crew.
- d. For each TRANSFLO terminal, please state if it is located in a CSXT yard, and if so, please state if the TRANSFLO terminal is located in a distinct section of the yard and if it is serviced by yard locomotives identifier;
- e. Please identify each Road Train by train identifier or train designation which serves each TRANSFLO terminal and the frequency of the service provided by each Road Train; and
- f. Please identify the security procedures employed by CSXT at each TRANSFLO terminal.

**Response:**

CSXT objects to this Interrogatory to the extent it requires a special study that CSXT is not required to conduct. CSXT further objects to subpart (f) to the extent it calls for disclosure of Sensitive Security Information ("SSI"). Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce non-SSI business records or other documents from which the answer to this Interrogatory can be derived or ascertained, to the extent that such documents exist and can be located in a reasonable search. *See* 49 C.F.R. § 1114.26(b).

**INTERROGATORY NO. 18**

Please identify any company other than CSXT that provides for the development, implementation and/or maintenance of computer systems, software and associated documentations for the day-to-day operations of CSXT.

**Response:**

CSXT objects to this Interrogatory as overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Nearly every function or division of



CSXT has, from time to time, used services of outside companies, consultants, or contractors for some information technology purposes, and M&G's expansive Interrogatory (which has no time limitation) calls for burdensome production of significant amounts of information that have no relevance to a Stand Alone Cost analysis in this case. Subject to and without waiving this objection and the General Objections, CSXT states that the company other than CSXT with primary responsibility for the development, implementation and maintenance of computer systems, software and associated documentations for the day-to-day operations of CSXT is CSX Technology, Inc. (including CSX Technology's subsidiaries and affiliates).

**INTERROGATORY NO. 19**

For each company identified in response to Interrogatory No. 18 which is a subsidiary or affiliate of CSX, or a joint venture involving CSX, please describe the services provided by the company and state if that company outsources any portion of its program development, computer program maintenance and/or other computer related activities. If so, please identify each company providing the outsourced services and describe the services outsourced.

**Response:**

CSXT objects to this Interrogatory to the extent it requires a special study that CSXT is not required to conduct. CSXT further objects to the vague term "outsourcing," which CSXT will construe to mean contracts or arrangements with unaffiliated or unrelated entities. Moreover, to the extent it seeks information that does not pertain to the operations of CSXT, this Interrogatory is not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving these objections or the General Objections, CSXT states that CSX Technology, Inc. and CSXT are both subsidiaries of CSX Corp. CSX Technology provides CSXT with technology support services, which include computer operations management and communication solution services; enterprise technology services; applications maintenance and development, and special technology projects such as fulfilling requests from specific

departments or user groups to provide new or improved functionality. CSX Technology does outsource a portion of its functions. CSXT will produce business records or other documents from which the answer to the remaining portions of this Interrogatory can be derived or ascertained, to the extent that such documents exist and can be located in a reasonable search. See 49 C.F.R. § 1114.26(b).

**INTERROGATORY NO. 20**

Please describe the CSXT personnel, processes, utilization, computer programs, computer models and electronic data that is utilized by CSXT when developing or implementing its "ONE Plan" for improving operating performance.

**Response:**

CSXT specifically objects to this Interrogatory because it is not reasonably calculated to lead to the discovery of admissible evidence. The question in this proceeding is whether the rates CSXT charges for the transportation at issue are reasonable under a stand-alone cost analysis under the Constrained Market Pricing principles established in *Coal Rate Guidelines*, 1 I.C.C.2d 520 (1985). Questions about CSXT's internal performance improvement programs do not have any relevance to the issues in this case.

**INTERROGATORY NO. 21**

Please describe the CSXT personnel, processes, utilization, computer programs, computer models and electronic data (both input data and output data) associated with each of the following models or tools used by CSXT and/or CSXI to facilitate commercial and operational planning:

1. Traffic Flow Analyzer ("TFA");
2. Multi Rail Enterprise Edition ("MREE");
3. Algorithmic Class Tracking ("ACT");
4. Rail Traffic Controller ("RTC");
5. Corridor Analyzer;
6. Demand Forecasting Flowmap Tool;
7. Service Planning Change Management System ("SPCMS");
8. Locomotive Fuel and Planning System ("LFPS");
9. Locomotive Simulation Model ("LSM");
10. Crew Planning System; and

**11. Rail Corridor Risk Management System ("RCRMS").**

CSXT's detailed explanation should include a description of how each of these models/tools are utilized internally by CSXT alone or in conjunction with other models/tools.

**Response:**

CSXT objects to this Interrogatory to the extent it calls for a special study that CSXT is not required to conduct. CSXT also objects to this Interrogatory as overbroad and unduly burdensome, and calling for irrelevant information to the extent it asks for a description of "personnel, processes, utilization, computer programs, computer models and electronic data" for eleven separate computer models. CSXT further objects to this Interrogatory as seeking information that CSXT may not be authorized to provide to share under applicable agreements (including licensing agreements) and intellectual property laws. Subject to and without waiving these objections or the General Objections, CSXT will provide a description of the purpose and function of these models.

**INTERROGATORY NO. 22**

In a September 10, 2000 paper titled "CSX Track Chart and Engineering Information System", CSXT describes its CSX Track Chart and Engineering Information System ("System").

- a. Please describe in detail the capabilities and typical uses of the System.
- b. Please describe how to remotely access the CSXT System.
- c. For each of the components of the CSXT System listed below, please describe each component in detail and identify any fields or values used to interpret data derived from each component. This includes, but is not limited to, the following components:
  - i. Track Geometry Measurement Data;
  - ii. Track Management Program;
  - iii. Geospatial or geographical Database ("GIS");
  - iv. The "System Foundation" containing milepost, latitude, longitude, elevation, switch and other track data;
  - v. Track Measurements;
  - vi. Mainframe Engineering Database;
  - vii. Electronic Track Charts; and

viii. Corridor Survey.

- d. Please describe the procedures for logging into the System and accessing each of the components identified in subpart c. to this Interrogatory No. 22.

**Response:**

CSXT objects to this Interrogatory to the extent it calls for a special study that CSXT is not required to conduct. CSXT also objects to this Interrogatory as overbroad and unduly burdensome, and calling for irrelevant information to the extent it asks for a detailed description of CSXT's internal systems, including utterly irrelevant information such as procedures for logging on to that system remotely. Subject to and without waiving these objections or the General Objections, CSXT will provide a description of the purpose and function of the CSX Track Chart and Engineering Information System.

**INTERROGATORY NO. 23**

Please describe the services, if any, that CSXI provides at each intermodal terminal or yard identified in CSXT's response to Interrogatory #13.

**Response:**

CSXT objects to this Interrogatory to the extent it requires a special study that CSXT is not required to conduct. CSXT further objects because CSXI no longer exists and thus no longer provides any services. Subject to and without waiving these objections and the General Objections, CSXT refers M&G to CSXT's Response to Interrogatory No. 13.

**INTERROGATORY NO. 24**

Please state whether or not CSXT has information and/or data in a computer-readable format or in its native format for the following items (each subpart cross-references a Request for Production included herein):

- a. Operating Timetables (or the data identified in the timetables) [RFP #13]
- b. Station Lists [RFP #13]
- c. Station Books [RFP #13]
- d. Track Charts (or the data contained on the track charts) [RFP #13]
- e. Schematics of trackage at Origins [RFP #13]

- f. Schematics of trackage at Destinations [RFP #13]
- g. Mileage between railroad stations [RFP #13 and #27]
- h. Number of feet between mileposts [RFP #13]
- i. Operating Statistics and Density Data (including but not limited to train miles, train hours, locomotive unit miles, loaded car-miles, empty car-miles, net ton-miles, gross ton-miles (both including and excluding locomotives), number of trains, etc.) [RFP #18]
- j. Density [RFP #19]
- k. Rail line elevation [RFP #39]
- l. Curves [RFP #39]
- m. Communications signals [RFP #40]
- n. Yards [RFP #41]
- o. Track Input files for the RTC Model [RFP #43]
- p. Train Input files for the RTC Model [RFP #43]
- q. Form A and Form B files for the RTC Model [RFP #43]
- r. Output files for the RTC Model [RFP #43]
- s. Cycle times and movement data [RFP #44]
- t. Cycle times (including actual, projected, standard, expected and/or contractual) [RFP #45]
- u. Locomotives [RFP #52]
- v. Locomotive fuel consumption [RFP #56]
- w. Locomotive utilization and performance (including unit-miles, hours running, hours switching, hours out-of-service for repairs and hours stored useable) [RFP #59]
- x. Crew districts (including “from” and “to” stations, route miles and number of locomotives per train by train type) [RFP #65]
- y. Train dispatch priority and methodology for scheduling trains [RFP #72]
- z. End-of-train telemetry devices [RFP #76]
- aa. CSXT freight cars [RFP #77]
- bb. CSXT trailers and/or containers [RFP #78]
- cc. CSXI trailers and/or containers [RFP #79]
- dd. CSXT auto rack cars [RFP #81]
- ee. Rail car repair and maintenance [RFP #85]
- ff. Rail car miles [RFP #85]
- gg. Shipper-owned and shipper-leased rail cars [RFP #86]
- hh. Intermodal and automotive railcars provided by a third party [RFP #86]
- ii. Locomotive repair and maintenance [RFP #88]
- jj. Locomotive unit-miles [RFP #88]
- kk. Number of shifts worked per year, years of employment and annual compensation for individual locomotive engineers, conductors, dispatchers and equipment inspectors [RFP #94]
- ll. Culverts [RFP #127]
- mm. Tunnels [RFP #131]
- nn. Bridges [RFP #133]
- oo. Highway Crossings [RFP #138]
- pp. Fences [RFP #146]

- qq. Geographic/Geospatial Information System ("GIS") [RFP #153 and Interrogatory #22]
- rr. CSX Track Chart and Engineering Information System [RFP #154 and Interrogatory #22]

**Response:**

CSXT objects to this Interrogatory as unreasonably burdensome, duplicative, ambiguous, and unnecessary. The "format" of information CSXT is producing in response to M&G's discovery requests is clear from the documents and data CSXT is producing today or will produce in the future. CSXT further objects to the vague and inadequately defined term "computer-readable format," which is susceptible of many different and divergent interpretations. CSXT will interpret this term to mean data that is maintained in forms or formats accessible by commercially available software or computer applications. CSXT further reasserts its objections to Instruction 3 of M&G's Discovery Requests: This includes objections to Instruction 3 in its entirety and to each subpart of Instruction 3. CSXT also objects that the considerable continuing uncertainty, confusion, and ambiguity as to what M&G may deem a "computer readable format" in any particular instance makes it practically impossible for CSXT to provide a meaningful response to Interrogatory No. 24. Subject to and without waiving these objections and the general objections, CSXT refers M&G to the documents and data CSXT has produced and will produce, from which the answer to this Interrogatory can be ascertained. 49 C.F.R. § 1114.26(b). Further subject to its objections, CSXT states that if M&G has additional reasonable and relevant questions about particular items, CSXT (through its counsel) is available and willing to discuss and respond to such questions.

**III. REQUESTS FOR PRODUCTION**

**REQUEST FOR PRODUCTION NO. 1**

Please produce all documents related to the preparation of the single line and AAR Accounting Rule 11 rates for M&G shipments identified on Exhibits A and B to M&G's Verified Complaint, and all predecessor publications thereto, including but not limited to

all documents used and/or relied upon in determining the formula for calculating the rates.

**Response:**

CSXT specifically objects to this Request because it is not reasonably calculated to lead to the discovery of admissible evidence. The question in this proceeding is whether the rates CSXT charges for the transportation at issue are reasonable under a stand-alone cost analysis under the Constrained Market Pricing principles established in *Coal Rate Guidelines*, 1 I.C.C.2d 520 (1985). The process by which a railroad calculates its rates has no relevance in a SAC analysis. Here, therefore, how CSXT “establish[ed]” its rates or “determin[ed] the formula for calculating the rates” are not relevant. CSXT further objects to the request for production of “all” documents as overbroad and unduly burdensome. CSXT also objects to the request for all documents “related to” the establishment of the Challenged Rates as vague, ambiguous, and overbroad.

**REQUEST FOR PRODUCTION NO. 2**

Please produce all studies and analyses conducted by or for CSXT from January 1, 2003 to date related to (a) the profitability of CSXT's traffic by traffic group; and (b) the profitability of transportation service provided by CSXT for the account of M&G including, but not limited to, all studies and analyses produced by CSXT's EyeProfit profitability analysis system.

**Response:**

CSXT specifically objects to the vague, ambiguous, and undefined term “profitability.” CSXT further objects to the extent that M&G’s request for “profitability” studies calls for the production of CSXT’s internal costing data. Requests for “profitability” studies, when coupled with M&G’s requests for the actual revenue data that CSXT will provide, constitute an impermissible attempt to obtain internal railroad costing data that the Board has long held is not subject to discovery in a Stand Alone Cost case. Moreover, the “profitability of CSXT’s traffic”

and “profitability of transportation service provided by CSXT for the account of M&G” are not relevant to whether the Challenged Rates are reasonable under the stand-alone cost constraint. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable scope of time and instead seeks information since 2003. Subject to and without waiving these objections or the General Objections, CSXT responds that it does not possess studies of “profitability” based on Uniform Rail Costing System data.

#### **REQUEST FOR PRODUCTION NO. 3**

For each M&G Shipment, either individually or aggregated in any form with other CSXT movements, produce all documents, including but not limited to any studies or other analyses, that refer or relate to actual or potential competition to CSXT from other rail carriers or transportation modes, or to transportation alternatives that are or might be available to M&G for such movements.

#### **Response:**

CSXT specifically objects to the request for the production of “any studies, analyses or other documents” on the ground it is overbroad and unduly burdensome. CSXT also objects to this Request to the extent it calls for information protected by the work product doctrine. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not time-limited. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

#### **REQUEST FOR PRODUCTION NO. 4**

For each of the commodities identified in Exhibits A and B to M&G’s Verified Complaint, either individually or aggregated in any form with other commodities, produce all documents, including but not limited to any studies or other analyses, that refer or relate to actual or potential competition to CSXT from other rail carriers or transportation modes for the transportation of such commodities, or to transportation alternatives that are or might be available for the movement of such commodities by rail.



**Response:**

CSXT incorporates by reference its response to Request for Production No. 3.

**REQUEST FOR PRODUCTION NO. 5**

Produce all documents, including but not limited to any studies or other analyses, that refer or relate to actual or potential competition to CSXT from other rail carriers or transportation modes for transportation for the account of M&G, or to transportation alternatives that are or might be available to M&G for any of the M&G Shipments, either individually or aggregated in any form with other CSXT movements or other commodities.

**Response:**

CSXT incorporates by reference its response to Request for Production No. 3.

**REQUEST FOR PRODUCTION NO. 6**

For each M&G Shipment, either individually or aggregated in any form with other CSXT movements, produce all documents, including but not limited to any studies or other analyses, that refer or relate to: (a) the price that would or might be charged by other carriers or modes of transportation for transportation from Origin to Destination; and (b) the cost(s) that would or might be incurred by other carriers or modes of transportation for the transportation from Origin to Destination.

**Response:**

CSXT incorporates by reference its response to Request for Production No. 3.

**REQUEST FOR PRODUCTION NO. 7**

For each of the commodities identified in Exhibits A and B to M&G's Complaint, either individually or aggregated in any form with other commodities, produce all documents, including but not limited to any studies or other analyses, that refer or relate to: (a) the price that would or might be charged by other carriers or modes of transportation for the transportation of such commodities; and, (b) the cost(s) that would or might be incurred by other carriers or modes of transportation for the transportation of such commodities.

**Response:**

CSXT incorporates by reference its response to Request for Production No. 3.

**REQUEST FOR PRODUCTION NO. 8**

For each of the commodities identified in Exhibits A and B to M&G's Verified Complaint, either individually or aggregated in any form with other commodities,

produce all documents, including but not limited to any studies or other analyses, that refer or relate to the physical characteristics of such commodities and the effect of those physical characteristics on the ability to transport such commodities via modes other than rail.

**Response:**

CSXT incorporates by reference its response to Request for Production No. 3.

**REQUEST FOR PRODUCTION NO. 9**

Produce all documents created, reviewed or referred to by CSXT, from January 1, 2006 through the present, to assess the market for transportation of each M&G Shipment and to set rates on each M&G Shipment, including but not limited to any competitive alternatives to CSXT rail transportation.

**Response:**

CSXT specifically objects to this Request because it is not reasonably calculated to lead to the discovery of admissible evidence. The question in this proceeding is whether the rates CSXT has established for the transportation at issue exceed a maximum reasonable level under a stand-alone cost analysis under the Constrained Market Pricing principles established in *Coal Rate Guidelines*, 1 I.C.C.2d 520 (1985). The process by which a railroad sets its rates has no relevance in a SAC analysis. Here, therefore, how CSXT “assess[ed] the market for transportation” is not relevant. CSXT also objects to the request for “all documents created, reviewed or referred to by CSXT, from January 1, 2006 through the present, to assess the market for transportation” as vague, ambiguous, overbroad, and unduly burdensome.

**REQUEST FOR PRODUCTION NO. 10**

Produce all documents created, reviewed or referred to by CSXT, from January 1, 2006 through the present, to assess the market for transportation of each commodity in Exhibits A and B to M&G’s Verified Complaint and to set rates on the movement of such commodities, including but not limited to any competitive alternatives to CSXT rail transportation.

**Response:**

CSXT incorporates by reference its response to Request for Production No. 9.

#### **REQUEST FOR PRODUCTION NO. 11**

Produce all documents created, reviewed or referred to by CSXT, from January 1, 2006 through the present, to assess the market for transportation in any of the SARR States for each movement and commodity in Exhibits A and B to M&G's Verified Complaint and to set rates on the movement of such commodities, including but not limited to any competitive alternatives to CSXT rail transportation.

#### **Response:**

CSXT incorporates by reference its response to Request for Production No. 9.

#### **REQUEST FOR PRODUCTION 12**

Please produce for each CSXT territory or division located in the SARR States, organization charts which show each CSXT management and/or supervisory position, the number of personnel in each position and the relationship or reporting authority and relative rank of each position. Please include organizational charts which include, but are not limited to, positions related to train operations, yard operations, maintenance of way, maintenance of equipment, engineering, and general and administrative functions. Also, include the relationship and reporting authority from each CSXT territory or division to CSXT senior management.

#### **Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to the extent that this Request is overbroad and unduly burdensome by requesting organization charts that encompass virtually every CSXT employee in the United States. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

#### **REQUEST FOR PRODUCTION NO. 13**

Please produce current operating timetables (including special instructions and/or operating rule books), station lists, station books, track charts and "condensed profiles" (including schematics which identify the division, subdivision, and ownership status (i.e., whether railroad-owned or privately-owned) of the tracks at the Origins and

Destinations), and any other document containing mileage figures and/or the feet between mileposts, which are applicable to CSXT lines in the SARR States. Please provide the requested data in their native formats to the extent available (including all necessary documentation). If current versions of any of the requested documents are not available, please produce the most recent versions that are available.

**Response:**

Subject to and without waiving the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 14**

For each Intermodal terminal or yard, Automotive Distribution Center and TRANSFLO terminal located in the SARR states, please provide documents showing the track layout, the length of each track, the ownership of each track and descriptions of the existing facilities.

**Response:**

Subject to and without waiving the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 15**

For all locations in the SARR States where CSXT interchanges railcars and/or trains with another railroad, please provide documents that: (a) describe the interchange procedures at each location; (b) identify the tracks (and length of each track) used for interchange purposes; and (c) identify the ownership of each track used for interchange purposes.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged,

responsive documents in its possession, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 16**

Please provide documents setting forth CSXT's policy on the construction of industrial tracks to serve customers, including, but not limited to, construction specifications and how costs for all track construction from the connection to CSXT track to the industry (including all turnouts ) is allocated between CSXT and the customer.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession or make such documents available for inspection by M&G counsel and/or consultants at CSXT's headquarters in Jacksonville upon request.

**REQUEST FOR PRODUCTION NO. 17**

Please produce copies of all documents, including agreements and/or understandings and all amendments and supplements thereto between CSXT and each railroad identified in Interrogatory No. 6, part "F", that refer or relate to the pricing and handling of all commodities, including but not limited to:

- a. Agreements or understandings pertaining to CSXT's payments to any of the identified railroads of a revenue factor, division, flat rate or other type of compensation for the railroad's portion of a movement;
- b. Locomotive run-through power or power sharing agreements or arrangements;
- c. Train crew run-through or train crew sharing agreements or arrangements;
- d. Any other agreements or arrangements pertaining to rates, surcharges, revenue sharing or operations; and

e. Any operating timetables (including special instructions and/or operating rule books), station lists, station books, track charts and "condensed profiles" for any of the above listed railroads; and

f. Copies of all bills or invoices from 2008 to the present (including all supporting documents and data) rendered between CSXT and any of the identified railroads pursuant to each of the agreements and/or understandings produced in response to this Request for Production No. 17.

**Response:**

CSXT specifically objects to this Request as overbroad and unduly burdensome to the extent it requires production of multiple categories of documents relating to 145 separate short line railroads. CSXT also objects to the vague, ambiguous, and overbroad request for documents that "refer or relate to the pricing and handling of all commodities." CSXT further objects to part e of this Request for Production as seeking documents available from other sources; M&G can obtain the listed railroads' timetables from those railroads themselves. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION 18**

For each CSXT line segment in the SARR States, please produce documents, in a computer-readable format to the extent available, which contain operating statistics and density data (including but not limited to train miles, train hours, locomotive unit miles, loaded car-miles, empty car-miles, net ton-miles, gross ton-miles (both including and excluding locomotives), number of trains, etc.) for all traffic by commodity for each year or partial year 2008 to the present.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged,

responsive documents in its possession, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 19**

Please provide the following density information for CSXT's entire system for each year or partial year 2008 to the present in its native format (computer readable), including all record layouts, field descriptions, data definitions and data dictionaries/decoders required to use the data. The density database or spreadsheet should include, at a minimum, the following data:

- a. Identification of the unique railroad divisions, subdivisions, and individual line segments for each unique density segment;
- b. Station name and SPLC at the beginning of a unique density segment and at the end of a unique density segment;
- c. Beginning and ending milepost for each unique density segment;
- d. Rail and track mileage for each unique density segment;
- e. ( i ) Total density (both directions including empty and loaded trains) by segment expressed in net ton-miles; or in the alternate, (ii) CSXT should provide total density (both directions including empty and loaded trains) by segment expressed in gross ton-miles plus appropriate factors that can be used to convert gross ton-miles to net ton-miles on each unique density segment; and
- f. Density information (i) for segments that CSXT utilizes via trackage rights (a joint facility or other joint use agreement) on another railroad and (ii) for segments where other railroads operate by trackage rights (a joint facility or other joint use agreement) over CSXT segments and identification of such densities that are included in the total densities provided in response to subpart e. above.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged,

responsive documents in its possession, to the extent that they can be located in a reasonable search.

#### REQUEST FOR PRODUCTION 20

Please produce the data bases, data warehouses and computer programs (with all documentation related to these data bases and computer programs), in a computer-readable format, that include the information listed below for each movement handled by CSXT or CSXI as originating, terminating, overhead or single-line carrier that traveled in any of the SARR States for each year or partial year 2008 to the present:

- a. Commodity (seven-digit Standard Transportation Commodity Code "STCC");
- b. Origin station and state;
- c. Destination station and state;
- d. The name of the customer, consignee, payee and shipper for each shipment record;
- e. For shipments that originated on CSXT's system, the date and time the shipment was originated;
- f. For shipments CSXT received in interchange, the on-junction station, state and Standard Point Location Code ("SPLC");
- g. For shipments CSXT received in interchange, the road received from;
- h. For shipments CSXT received in interchange, the date and time the shipment was interchanged;
- i. For shipments given in interchange, off-junction station, state and SPLC;
- j. For shipments given in interchange, the road given to;
- k. For shipments given in interchange, the date and time the shipment was interchanged;
- l. For shipments terminated on CSXT's system, the date and time the shipment was terminated;
- m. Origin Freight Station Accounting Code ("FSAC");
- n. Destination FSAC;
- o. Origin SPLC;
- p. Destination SPLC;
- q. Number of railcars;
- r. Number of intermodal containers/trailers
- s. Tons (Net);
- t. Railcar tare weight;



- u. Intermodal container/trailer tare weight;
- v. Total freight revenues from origin to destination, including any adjustments thereto, along with a description of the adjustment (i.e., add to or subtract from gross revenue);
- w. CSXT's share or division of the total freight revenues, including any adjustments thereto;
- x. Total revenues from surcharges (including but not limited to fuel surcharges), and whether such revenue from surcharges is included in the total freight revenues and CSXT's division thereof provided in response to Subparts (v) and (w) above;
- y. The contract, agreement, tariff, pricing authority, etc. that the shipment is billed under, including the amendment and item numbers;
- z. Waybill number and date;
- aa. TOFC/COFC plan;
- bb. Car/trailer/container initial for each car/trailer/container used to move the shipment (for intermodal movements provide both the railcar and container/trailer initials);
- cc. Car/trailer/container number for each car/trailer/container used to move the shipment (for intermodal movements provide both the railcar and container/trailer number);
- dd. The train identification number of all trains used to move the shipment;
- ee. The number of locomotives, by train identification, by segment, used to move the shipment;
- ff. The total horsepower, by train identification, by line segment, used to move the shipment;
- gg. The total gross trailing tons, by train identification, by line segment, for all trains used to move the shipment;
- hh. The station, state and SPLC where the traffic was interchanged between trains;
- ii. Total loaded movement miles;
- jj. The predominant route of movement for each shipment on CSXT's system that is associated with the loaded movement miles;
- kk. Total empty movement miles;
- ll. Miles used to derive applicable fuel surcharges;
- mm. Applicable fuel surcharge rate;
- nn. Total loaded miles on CSXT's system;
- oo. Total empty miles on CSXT's system;

- pp. AAR car-type code;
- qq. Provider of car and trailer/container (CSXT-owned, CSXT-leased, shipper, or foreign road);
- rr. Provide the intermodal service plan code and the intermodal line of business code for each intermodal shipment;
- ss. Provide the length, width and height for each car/container/trailer used to move the shipment; and
- tt. Provide the number of articulated wells included (where applicable) in an individual railcar used to move an intermodal (or other) shipment.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT also specifically objects to the requests in subparts v and x, ii, and kk as irrelevant and unduly burdensome to the extent they seek non-CSXT information. CSXT further objects to this Request to the extent it seeks information about the “nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to [CSXT] for transportation,” 49 U.S.C. § 11904, on the grounds that disclosure of such information to a third person (*i.e.* a person other than the shipper or consignee to whom that information pertains) is generally unlawful. The Protective Order recently issued by the Board expressly provides for the production of such information (designated “Highly Confidential”), however, finding that production of that information is essential to the disposition of this case and providing that production of such information in this case “will not be deemed a violation of 49 U.S.C. § 11904.” *See* Decision at 5, ¶ 7, *M & G Polymers USA LLC v. CSX Transportation, Inc.*, STB Docket No. 42123 (served Aug. 4, 2010) (Procedural Schedule and Protective Order). Accordingly, subject to CSXT’s other objections, CSXT will search for and produce responsive information whose production would otherwise be prohibited by Section

11904, to the extent it exists and is in CSXT's possession. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 21**

Please produce documents, in a computer readable format to the extent available, which contain complete information (including all events) tracking and describing car, locomotive and train movements for each car, locomotive and train moving on CSXT lines to, from or through the SARR States for each year or partial year 2008 to the present. Provide location information by station, state and SPLC.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request because it is overbroad and unduly burdensome, calling for the production of millions of records. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 22**

Please provide copies of the CSXT train dispatcher sheets (and the data recorded in such sheets in a computer readable format, to the extent available), or other documents (*e.g.*, conductor wheel reports) that record train movement data in a computer readable format to the extent available, for all car and train movements and yard and hub operations on CSXT to, from or through the SARR States for each year or partial year 2008 to the present.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data

and documents are kept in the ordinary course of business. CSXT further objects to this Request because it is overbroad and unduly burdensome, to the extent it calls for CSXT to produce data that is not readily accessible in a computer readable format. Subject to and without waiving these objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

#### **REQUEST FOR PRODUCTION NO. 23**

Please provide all documents, including programs, decoders, and instructions, necessary to utilize, evaluate and link the data produced in response to Request for Production Nos. 20, 21 and 22. Please include with this production a description of the relationship between the databases (e.g., whether there is a 1:1 ratio between databases, or whether one can expect to link 100% of the records in one file to another file.) Please also indicate which data fields are common to (and may be used to link) the provided databases.

#### **Response:**

CSXT objects to this Request to the extent that it requires CSXT to share “programs, decoders, and instructions,” which may violate the terms of applicable software licenses and agreements. CSXT further objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing “decoders” or devising means to “link” data. CSXT also objects to this Request because it is overbroad and unduly burdensome. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will provide information necessary for M&G’s consultants to access and read the data CSXT produces, to the extent that CSXT maintains such information.

#### **REQUEST FOR PRODUCTION NO. 24**

Please produce all studies, analyses, reports, or other documents that evaluate or report on CSXT’s implementation and recent update of its “ONE Plan” which, according to CSXT, is an internal company program for improving operating performance of the railroad and driving greater network efficiencies.

**Response:**

CSXT specifically objects to this Request because it is not relevant and not reasonably calculated to lead to the discovery of admissible evidence. The question in this proceeding is whether the rates CSXT charges for the transportation at issue are reasonable under a stand-alone cost analysis under the Constrained Market Pricing principles established in *Coal Rate Guidelines*, 1 I.C.C.2d 520 (1985). Questions about CSXT's internal performance improvement programs do not have any relevance to the issues in this case.

**REQUEST FOR PRODUCTION NO. 25**

Please produce all studies, analyses, reports, or other documents that evaluate or report on CSXT's implementation of its "Total Service Integration" ("TSI") initiative which, according to CSXT, is an internal company program for better aligning CSXT's operating capabilities with its customer demand.

**Response:**

CSXT specifically objects to this Request because it is not relevant and not reasonably calculated to lead to the discovery of admissible evidence. Questions about CSXT's internal performance improvement programs do not have any relevance to the issues in this case.

**REQUEST FOR PRODUCTION NO. 26**

Please provide CSXT's geographic information system ("GIS") that captures, stores, analyzes, manages and presents CSXT data that are linked by locations across the CSXT rail system.

**Response:**

CSXT objects to this Request because it requires CSXT to produce software in potential violation of applicable licensing agreements and intellectual property laws. CSXT also objects to this Request because it calls for production of commercially available software or equivalents of such software that can be acquired from other sources. CSXT further objects because M&G's

request that CSXT produce software is not reasonably calculated to lead to the discovery of admissible evidence.

**REQUEST FOR PRODUCTION NO. 27**

Please provide the CSXT mileage chart and/or table-based mileage matrix and/or routing table that identifies the CSXT rail mileage between any two points on the CSXT rail system based upon a predominant or expected route of movement.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT specifically objects that the request for a mileage chart providing mileages between each and every pair of points on the CSXT system, uniformly and entirely “based upon a predominant or expected route of movement” would require a special study. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they exist.

**REQUEST FOR PRODUCTION NO. 28**

Please provide working copies of the following analytical models or tools (including all necessary input data files) utilized by CSXT and/or CSXI to develop commercial and operational plans for CSXT:

1. TFA;
2. MREE;
3. ACT;
4. RCRMS;
5. RTC;
6. Corridor Analyzer;
7. SPCMS;
8. LFPS;
9. Crew Planning System;
10. Demand Forecasting Flowmap Tool; and
11. LSM.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to share “analytical models or tools,” which may violate the terms of applicable licenses or agreements, as well as intellectual property laws. CSXT also objects to this Request because it is overbroad and unduly burdensome. CSXT further objects because M&G’s demand that CSXT produce software is not reasonably calculated to lead to the discovery of admissible evidence.

**REQUEST FOR PRODUCTION NO. 29**

Please produce all transportation contracts, including all amendments and supplements thereto (or letters of understanding with appendices or attachments), and all tariffs, common carrier pricing authorities or other documents containing common carrier rate and service terms (collectively “pricing authorities”), entered into, agreed to or established or provided by CSXT which govern shipments handled by CSXT as originating, terminating, overhead or single-line carrier to, from or through any of the SARR States in any of the years 2008 and beyond. For each pricing authority, please provide the traffic volumes and revenues associated with the movement of traffic under each pricing authority by traffic group (e.g., coal, ag, intermodal, etc.) and year for 2008 through the present.

**Response:**

CSXT objects to this Request as unduly burdensome and overbroad. CSXT has had millions of common carrier prices and thousands of contracts in effect since the beginning of 2008. The burden of producing tariffs and common carrier authorities is particularly undue because current tariff information is public and readily available to M&G. *See Duke Energy v. Norfolk So. Co.*, STB Docket Nos. 42069, 42070 (July 26, 2002) (“[I]t is unduly burdensome to require a party to produce information that is available from public records or through less intrusive means.”). And, the request for production of “all” contracts creates a significant burden on CSXT both to identify those contracts with provisions requiring notification of the customer before the contract may be disclosed in discovery and to provide appropriate notice to such customers. Subject to and without waiving these objections or the General Objections, CSXT

responds that production of "all" contracts and pricing authorities is unduly burdensome, unreasonable, and unlikely to be of use to M&G in this litigation. However, CSXT will make a reasonably limited number of contracts available to M&G for inspection. The traffic files that CSXT will produce will contain a field identifying the pricing authority for each movement, which should enable M&G to select particular contracts for inspection. CSXT will make a reasonable number of individual contracts available for inspection by M&G counsel and/or consultants at CSXT's headquarters in Jacksonville upon request, which should be made far enough in advance for CSXT to evaluate and satisfy its contractual obligations to notify other parties to the contract. In addition, information on millions of current and historical CSXT common carrier pricing rates is available to M&G (and the general public) on CSXT's website at <http://www.csx.com/?fuseaction=customers.pricing>.

#### **REQUEST FOR PRODUCTION NO. 30**

Please produce all forecasts and all documents related to forecasts or projections prepared by or for CSXT from 2008 through the present, or in CSXT's possession, of future traffic volumes and/or revenues for freight traffic by traffic group (including any breakdowns of any such forecasts or projections whether by commodity classification, geographic region, line segment, or any other category) moving over any portion of the CSXT system located in any of the SARR States. Documents responsive to this request include, but are not limited to, traffic projections prepared in connection with engineering studies or authorization for expenditures or marketing studies or operating expense budgets or capital budgets or mergers with or acquisitions of other carriers.

#### **Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to the request for production of "all" documents as overbroad and unduly burdensome. CSXT also specifically objects to M&G's request for all forecasts created since 2008 because CSXT does not maintain historical forecasts in a readily accessible format. CSXT also objects to M&G's overbroad and



unduly burdensome request for all documents “related to” forecasts. CSXT further objects to M&G’s request for outdated 2008 forecast data as irrelevant and unduly burdensome. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive forecasts in its possession that can be identified after a reasonable search.

**REQUEST FOR PRODUCTION NO. 31**

Please produce all inflation and/or rail cost adjustment estimates or calculations in CSXT's possession or that CSXT prepared or caused to be prepared or purchased for each year or partial year 2008 to the present, including, but not limited to, any estimates relating to:

- a. The cost of acquiring equity;
- b. The cost of acquiring debt;
- c. General expenses, including, but not limited to, asset, equipment, materials and supplies, fuel and labor expense;
- d. Railroad productivity, including but not limited to commodity-specific productivity, asset productivity and expense productivity;
- e. Gross Domestic Product/Implicit Price Deflator;
- f. Producer Price Index - All Commodities;
- g. The U.S. Department of Energy's U.S. average price of Retail On-Highway Diesel Fuel; and
- h. Land values along or adjacent to CSXT’s right of way in the SARR states.

**Response:**

CSXT specifically objects to this Request as vague and ambiguous, particularly as to the requests for estimates relating to “the cost of acquiring equity” and the “cost of acquiring debt.” CSXT further objects to this Request as unduly burdensome in that it asks CSXT to provide documents relating to publicly available data and information that M&G can access readily. *See Duke Energy v. Norfolk So. Co.*, STB Docket Nos. 42069, 42070 (July 26, 2002) (“[I]t is unduly

burdensome to require a party to produce information that is available from public records or through less intrusive means.”). Subject to and without waiving these specific objections or the General Objections, CSXT responds that it does not possess responsive information that is not publicly available.

**REQUEST FOR PRODUCTION NO. 32**

Please produce all documents that relate to the development of the methodology for the calculation and imposition of the "fuel surcharges" described in CSXT's Fuel Surcharge Publication 8661-B and all predecessor documents, including but not limited to:

- a. Documents related to the determination to calculate the surcharge based upon the length of a line-haul movement;
- b. Documents related to the selection of the Retail On-Highway Diesel Fuel average price as the benchmark for the calculation of the surcharge; and
- c. All analyses, studies or other documents which address the relationship, if any, between the revenues from the surcharge to any specific movement(s) or group of movement(s) and changes in the actual cost to CSXT of the fuel consumed by the locomotives used in that (those) movement(s).

**Response:**

CSXT specifically objects to this Request as irrelevant to this proceeding, as M&G's request for CSXT to disclose the "development of the methodology for calculation and imposition of [] 'fuel surcharges'" has no relevance to a SAC analysis. As such, this Request is not reasonably calculated to lead to the discovery of admissible evidence.

**REQUEST FOR PRODUCTION NO. 33**

To the extent not produced in response to Request for Production No. 32, please produce all documents which relate to the consideration of alternative fuel surcharge methodologies to that described in CSXT's Fuel Surcharge Publication 8661-B, and/or to the consideration of prospective changes or amendments to the methodology described in said publication.

**Response:**

CSXT hereby adopts and incorporates by reference its response to Request for Production No. 32.

#### **REQUEST FOR PRODUCTION NO. 34**

Please produce the databases, data warehouses, and computer programs (with all documentation related to these databases and computer programs), in a computer readable format, sufficient to show all the data requested in M&G's Request for Production No. 20 for each trailer, container, Auto Rack Car or freight car (used for a TRANSFLO shipment) handled by CSXT, including but not limited to revenue received from CSXI's, TDSI's and/or TRANSFLO's customers.

#### **Response:**

CSXT objects to this Request to the extent that it requires CSXT to share “databases, data warehouses, and computer programs,” which may violate the terms of applicable software licenses or agreements, as well as the copyright and/or patent laws. Subject to and without waiving this objection and the General Objections, CSXT responds that it will produce data from its business records responsive to this Request, to the extent that such data exists and can be located in a reasonable search.

#### **REQUEST FOR PRODUCTION NO. 35**

Please provide documents and data sufficient to link data records for trailer, container, Auto Rack Car and/or freight cars (used for a TRANSFLO shipment) that CSXT will produce in response to Request for Production No. 34 to the corresponding data records appearing in the CSXT waybill/car movement/train movement records or files that CSXT will produce in response to M&G's Request for Production Nos. 20, 21 and 22. If there are no records for CSXT flat cars, Auto Rack Cars or freight cars (used for a TRANSFLO shipment) in the CSXT files that CSXT will produce in response to M&G's Request for Production Nos. 20, 21 and 22, please identify or produce documents sufficient to show the authority used by CSXT and CSXI, TDSI and/or TRANSFLO to move flat cars with CSXI trailers or containers, Auto Rack Cars and/or freight cars (used for a TRANSFLO shipment) that move over CSXT lines (in both directions) in the SARR States.

#### **Response:**

CSXT incorporates by reference its response to Request for Production No. 34.

#### **REQUEST FOR PRODUCTION NO. 36**

Please produce the databases, data warehouses, and computer programs (with all documentation related to these data bases, data warehouses, and computer programs), in a computer readable format, sufficient to show all of the data requested in M&G's Request

for Production No. 20, including but not limited to revenue received by CSXI from its customers ("freight revenue"), in connection with traffic described in M&G's Request for Production No. 20, for each year or partial year 2008 to the present.

**Response:**

CSXT incorporates by reference its response to Request for Production No. 34.

**REQUEST FOR PRODUCTION NO. 37**

Please produce documents which contain the following information for all coal mines that CSXT served or from which CSXT transported coal as an originating, intermediate or terminating carrier that moved in one or more of the SARR States for each year 2008 to the present:

- a. Geographic location, *i.e.*, city, county and state;
- b. Railroad location, *i.e.*, railroad station name, SPLC, and milepost;
- c. Railroad mine identification number corresponding to the identification numbers contained in CSXTs computerized traffic data, *e.g.*, SPLC (Standard Point Location Code), FSAC (Freight Station Accounting Code) or any other numbering system CSXT uses;
- d. Annual tonnages that CSXT transported from that mine;
- e. Track capacity in feet at each location separated between track owned by CSXT and track not owned by CSXT;
- f. The track configuration at each mine, with both the track that CSXT or another rail carrier owns (or jointly owns) and the mine-owned track clearly identified;
- g. Annual weeks of mine operation;
- h. Average tons per car loaded;
- i. Loading capacity (tons per hour); and
- j. If the mine has closed or ceased shipping coal, the date of such closure or of the last shipment.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by developing, compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome. Subject to and without waiving these objections and the General Objections, CSXT refers M&G to the publicly available documents available at [http://www.csx.com/?fuseaction=customers.coal\\_locations](http://www.csx.com/?fuseaction=customers.coal_locations) and responds that CSXT

will make available for inspection additional non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 38**

Please produce any studies, simulations, analyses and other documents in CSXT's possession from January 1, 2003 to present analyzing or related to the transportation of shipments to Destinations from Origins (a) by a rail carrier(s) other than CSXT, and (b) by any mode of transportation other than rail. If no such documents exist, please confirm same in the response to this Request.

**Response:**

CSXT specifically objects to the request for the production of “any studies, analyses or other documents” on the ground it is overbroad and unduly burdensome. CSXT also objects to this Request to the extent it calls for information protected by the attorney-client privilege and/or work product doctrine. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable scope of time and instead seeks information since 2003. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession from 2008 to the filing of the Complaint that can be located after a reasonable search, to the extent that they exist.

**REQUEST FOR PRODUCTION NO. 39**

Please produce the following documents (in a computer-readable format to the extent available)

- a. Documents that show the rail line elevation and provide all information maintained by CSXT pertaining to those elevations including, but not limited to, division, subdivision, beginning milepost, ending milepost and elevation in feet above sea level for all CSXT line segments in the SARR states.
- b. Documents that identify all curves on the CSXT line segments in the SARR states and provide all information maintained by CSXT pertaining to those curves including, but not limited to, division, subdivision, beginning milepost, ending milepost and degree of curvature.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to the overbroad and unduly burdensome request for “all” information “pertaining to” elevations and “all” information about “all” curves. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 40**

Please produce documents (in computer readable format to the extent available) that identify and list the location and type of communications signals used for train operations by milepost, division, and subdivision on all CSXT line segments in the SARR states.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to the overbroad and unduly burdensome request for information about “communications signals used for train operations by milepost, division, and subdivision on all CSXT line segments in the SARR states,” which comprises virtually the entire CSXT system. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent they exist and can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 41**

Please produce documents (in computer readable format to the extent available) that depict individual tracks, connections to the main line, turnouts, communications,

signals and elevations for all yards on the CSXT system which are located in the SARR states.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to the overbroad and unduly burdensome request for depictions of “individual tracks, connections to the main line, turnouts, communications, signals and elevations for all yards on the CSXT system which are located in the SARR states,” which comprises virtually the entire CSXT system. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 42**

Please produce all documents related to unplanned track-related and operating-related incidents or outages that affected train operations from 2008 to the present in the SARR States. If the information requested would require a special study, please produce random failure, outage or incident reports or similar documents, as kept in the ordinary course of business by CSXT, from which the requested data could be extracted.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this objection and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

#### REQUEST FOR PRODUCTION NO. 43

Please produce any studies or analyses currently being conducted, or that have been conducted over the past three (3) years, which model and evaluate rail operations over the entire CSXT rail system or any portion of the CSXT system that are based on the Rail Traffic Controller ("RTC") model. In addition to the results of such studies or analyses, please provide the following RTC information:

- a. Identify the version of the RTC computer model used in each study or analysis;
- b. Provide all electronic input files required to run the RTC model including, but not limited to, track input files, train input files, Form A and Form B files; and,
- c. Provide all electronic files generated as output from the RTC model for each study or analysis.

#### Response:

CSXT specifically objects to this Request as overbroad to the extent that it requires CSXT to produce RTC studies funded and/or owned by third parties, including governmental authorities. Such studies are the proprietary information of the third parties who funded and instigated them. CSXT further objects to this Request to the extent it calls for analyses of passenger operations. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession related to RTC studies that were funded and owned by CSXT and that model rail operations.

#### REQUEST FOR PRODUCTION NO. 44

Please produce documents related to the measurement and/or analysis of cycle and/or transit times for all CSXT movements originating, terminating or passing through any of the SARR States for each year or partial year from 2008 to the present. Included in this Request are documents containing the following information for each movement, in a computerized format to the extent available.

- a. Waybill number and date;
- b. Car/trailer initial and number;
- c. Origin location, i.e., station, state, milepost, FSAC and SPLC;
- d. Destination location, i.e., station, state, milepost, FSAC and SPLC;
- e. Cycle and/or transit time from origin to destination;
- f. Location (i.e., station, state, milepost, FSAC and SPLC) where each shipment enters into or originates in the SARR States;



- g. Location (i.e., station, state, milepost, FSAC and SPLC) where each shipment departs from or terminates in the SARR States; and
- h. Cycle and/or transit time while movement is within the SARR States.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 45**

Please provide documents, in a computer-readable format to the extent available, sufficient to show the projected and actual cycle times, and the standard or expected or contractual cycle time for each movement originating, terminating or passing through any of the SARR States for each year or partial year 2008 to the present.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects that, to the extent there is a “contractual” cycle time for particular movements, M&G could determine that by reviewing applicable contracts and price authorities, which CSXT is willing to make available for review upon reasonable advance request. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

#### **REQUEST FOR PRODUCTION NO. 46**

Please produce the computer model, supporting databases and supporting manuals that are used by CSXT to calculate the expected cycle time for a movement, including all necessary inputs required to run the model for each movement originating, terminating, or passing through any of the SARR States for each year or partial year 2008 to the present.

#### **Response:**

CSXT objects to this Request to the extent that it requires CSXT to share “computer model[s], supporting databases and supporting manuals” which may violate the terms of applicable software licenses or agreements, as well as applicable copyright and patent laws. CSXT further objects because M&G’s request that CSXT produce software, manuals, and supporting databases is not reasonably calculated to lead to the discovery of admissible evidence, and is overbroad and unduly burdensome.

#### **REQUEST FOR PRODUCTION NO. 47**

Please produce documents that contain the following information for each of the years 2008 to present:

- a. The location(s) where car inspectors inspect trains in the SARR States;
- b. A description of the procedures followed by the car inspectors in preparing for and inspecting the trains;
- c. The total number of car inspections per tour of duty (by day of the week) and the total number of trains inspected per tour of duty (by day of the week), separated between trainload and unit trains and other than trainload or unit trains, for each location identified in response to (a) above;
- d. The number of car inspectors inspecting each train at each location identified in response to (a) above and the time spent by each inspector during each inspection;
- e. The daily or hourly rates of pay, including all additives, for the inspectors identified in response to (d) above;
- f. The number of trains each car inspector identified in response to (a) above inspects during his tour of duty;
- g. The other duties performed by the car inspectors identified in response to (d) above while on duty and not inspecting trains;
- h. The percentage of time the car inspectors identified in response to (d) above spend inspecting trains versus other assignments during their tour of duty;

- i. The materials and supplies used by the car inspectors at each of the locations identified in response to (a) above;
- j. The purchase price of each item identified in response to (i) above; and
- k. The total number of trains and cars inspected at each location identified in response to (a) above..

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 48**

For each car inspection location identified in response to Request for Production No. 47, subpart a., please produce documents that demonstrate for each year 2008 to the present:

- a. The number of cars inspected;
- b. The number of cars which are considered "bad ordered" and sent to a repair track in the vicinity of the inspection location;
- c. The number of cars which are considered "bad ordered" and required to be moved to a car repair facility; and
- d. The time required to perform each inspection.

**Response:**

CSXT incorporates by reference its response to Request for Production No. 47.

**REQUEST FOR PRODUCTION NO. 49**

Please produce copies of all contracts/agreements with third parties (including but not limited to shippers or receivers) related to the performance of car inspection functions with respect to all trains traversing any portion of the SARR States for each year 2006 to the present.

**Response:**

CSXT objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable scope of time and instead seeks information since 2006. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will make available non-privileged, responsive documents in its possession from 2008 to the filing of the Complaint that can be located after a reasonable search. CSXT will make individual contracts and agreements available for inspection by M&G counsel and/or consultants at CSXT's headquarters in Jacksonville upon request, which should be made far enough in advance for CSXT to evaluate its contractual obligations to notify other parties to the contract.

**REQUEST FOR PRODUCTION NO. 50**

Please produce any computer programs or models CSXT uses or has used in the past five years to determine the number and types of railcars required to move its normally expected traffic volumes and the incremental or above-normal volumes moving in peak periods.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to share "computer programs or models," which may violate the terms of applicable software licenses or agreements, as well as applicable copyright and patent laws. CSXT objects to the term "normally expected," which is undefined and susceptible to multiple different interpretations. CSXT also objects because M&G's request that CSXT produce computer programs or models is not reasonably calculated to lead to the discovery of admissible evidence, and is overbroad and unduly burdensome. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable scope of time.

**REQUEST FOR PRODUCTION NO. 51**

Please produce documents for each year or partial year 2008 to the present which list by initial and unit number: (a) locomotives used in the SARR States; and (b) if such

locomotives listed in response to (a) above were drawn from a pool, all the locomotives in the pool from which the locomotives were drawn.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by identifying the particular locomotives used in the SARR States and compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 52**

Please produce documents, in a computer-readable format to the extent available, which provide the following information for each of the locomotives contained in each of the listings produced in response to Request for Production No. 51:

- a. The locomotive initial and number;
- b. The manufacturer, if purchased;
- c. The lessor, if leased or rented;
- d. Model or type (e.g., SD-40-2);
- e. Horsepower;
- f. Capacity of its fuel tanks (gallons);
- g. Weight;
- h. Date of purchase or lease;
- i. Date first placed into service;
- j. The original cost plus the cost of any additions and betterments;
- k. Financing vehicle (e.g., equipment trust);
- l. Debt rate as a percent;
- m. Financing terms (in years);
- n. Annual depreciation;
- o. Annual depreciation as a percent;
- p. Current salvage value as a percent;
- q. Accrued depreciation;
- r. If leased, the type of lease (i.e., capital, operating, "power by the hour", etc.);
- s. If a capital lease, the capitalized value of the lease by locomotive or group of locomotives (if a group of locomotives, the number of locomotives (by initial and number) and aggregate dollars);

- t. If an operating lease, the quarterly, semi-annual, etc., lease payment by locomotive or group of locomotives covering the term of the lease (if a group of locomotives, the number of locomotives (by initial and number) and aggregate dollars);
- u. If leased or rented under a short-term or "power by the hour" agreement, the minimum annual fixed payment and the use payment (e.g., per kilowatt/hour, per diesel unit mile, etc.) per locomotive, the average annual payment per locomotive, and the annual locomotive unit-miles for each such locomotive, stated separately for coal service and other service; and
- v. The diesel unit-miles traveled each year or partial year from 2008 to the present in all types of service.

**Response:**

CSXT incorporates by reference its response to Request for Production No. 51.

**REQUEST FOR PRODUCTION NO. 53**

Please produce all lease or rental agreements, including all supplements and copies of all billings, applicable to each leased or rented locomotive identified in response to Request for Production Nos. 51 and 52.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by identifying the particular locomotives used in the SARR States and compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to the request for "all billings" as unduly burdensome and overbroad. CSXT also objects to the request to the extent it calls for production of confidential agreements that may require CSXT to provide notice to other parties before disclosure to M&G. CSXT further objects to the request for "all" lease or rental agreements as overbroad and unduly burdensome. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce data from which M&G can select particular lease or rental agreements for inspection. CSXT will make individual lease and rental agreements available for inspection by M&G counsel and/or consultants at CSXT's

headquarters in Jacksonville upon request, which should be made far enough in advance for CSXT to evaluate and satisfy its contractual obligations to notify other parties to the lease or rental agreement.

**REQUEST FOR PRODUCTION NO. 54**

Please produce documents which provide the following information for all CSXT helper services operated in the SARR States, separately for each helper service location, for each year or partial year 2008 to the present:

- a. "From" and "To" stations, SPLC's and mileposts where trains are actually helped;
- b. Number and type of locomotives (model and horsepower) involved per help;
- c. Round-trip mileage each locomotive travels per help;
- d. Number of total trains helped per crew assignment;
- e. Minimum train size/weight requiring helper service; and
- f. Crew size per crew assignment.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 55**

Please produce documents sufficient to show the following information:

- a. The location(s) where locomotives are fueled in the SARR States;
- b. The actual amount of fuel used by the locomotives identified in response to Request for Production No. 51, either by individual locomotive, or collectively, for the most recent 12 months or calendar year;
- c. The total number of diesel unit miles generated by the locomotives for which fuel consumption data was provided in response to (b) above during the same time period used in response to (b) above.
- d. The method by which CSXT accounts for or records fuel usage for locomotives;
- e. Computer-readable versions (both compiled and non-compiled), including all supporting databases and necessary documentation, of any and all computer

- programs in CSXT's possession used to estimate the fuel usage of locomotives;  
and
- f. The same information for all road locomotives on the CSXT system in the same format as that given in the responses to (b), (c), and (e) above.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 56**

Please produce all studies, analyses and related documents (including summaries, computer programs and all supporting databases and data), in a computer-readable format to the extent available, pertaining to the fuel consumption or the measurement of the fuel consumption by CSXT trains (or the locomotives used on CSXT trains) moving through any portion of the SARR States for each year or partial year 2008 to the present.

**Response:**

CSXT specifically objects to M&G's overbroad and unduly burdensome request for "all" "related documents." CSXT also objects to this Request to the extent that it requires CSXT to share "computer programs and all supporting databases," which may violate the terms of applicable software licenses or agreements, as well as applicable copyright and patent laws. CSXT also objects because M&G's request that CSXT produce computer programs and databases is not reasonably calculated to lead to the discovery of admissible evidence, and is overbroad and unduly burdensome. Subject to and without waiving these objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.



**REQUEST FOR PRODUCTION NO. 57**

Please produce the train list(s) and train profile(s) showing the scheduled horsepower per ton ("HPT") for all trains operating to, from or within the SARR States. If the train list(s) or train profile(s) are not available, please provide other documents sufficient to show the scheduled HPT for the trains identified above.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable scope of time. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 58**

Please produce copies of the following documents:

- a. Documents which identify the locomotive tonnage ratings (*e.g.* horsepower per trailing ton) by line segment for CSXT's lines in the SARR States; and
- b. Tractive effort tables or other documents sufficient to show the tractive effort produced by the locomotives used to transport trains through any portion of the SARR States.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 59**

Please produce documents, in a computer readable format to the extent available, which show locomotive utilization and locomotive performance (*e.g.*, locomotive unit-miles, locomotive hours running, locomotive hours switching, locomotive hours out-of-service for repairs and locomotive hours stored useable) for each locomotive that CSXT owned or leased for each year or partial year 2008 to the present and that CSXT used in providing transportation service in the SARR States.

**Response:**

CSXT specifically objects to the vague, ambiguous, and undefined term “locomotive utilization.” CSXT further objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 60**

Please produce documents which describe and explain how CSXT assigns locomotives to each train on CSXT's system. If CSXT uses a computer model for this purpose, please produce the model and all supporting data bases and operating manuals necessary to operate the model.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study to “describe and explain how CSXT assigns locomotives to each train on CSXT's system.” CSXT further objects to this Request to the extent that it requires CSXT to share “computer model[s]” and “all supporting databases and operating manuals,” which may violate the terms of applicable software licenses or agreements, as well as applicable copyright and patent laws. CSXT also objects because M&G's request that CSXT produce computer models, manuals, and supporting databases is not reasonably calculated to lead to the discovery of admissible evidence,

and is overbroad and unduly burdensome. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents that describe and explain how CSXT assigns locomotives to each train on CSXT's system, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 61**

Please produce any studies performed by or for CSXT from January 1, 2003 to the present related to the increase in locomotives required to handle shipments during seasonal peak traffic periods. In addition, please provide the underlying databases that were used to perform each study.

**Response:**

CSXT objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable scope of time. M&G's request that CSXT produce "underlying databases that were used to perform each study" is also overbroad and unduly burdensome, increasing the scope of this Request exponentially, and is not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession covering the period of 2008 to the present, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 62**

Please produce any studies performed by or for CSXT from January 1, 2003 to the present related to the increase in the number of railcars required to handle shipments during seasonal peak traffic periods. In addition, please provide the underlying databases that were used to perform each study.

**Response:**

CSXT objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable scope of time. M&G's request that CSXT produce "underlying databases that were used to perform each study," which exponentially increases the scope of this Request,

is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession covering the period from 2008 to the filing of the Complaint, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 63**

Please produce any locomotive spare margin study performed by CSXT from January 1, 2003 to date that includes (in whole or in part) locomotives used (a) in coal service and/or (b) in other service to, from or through the SARR States. In addition, please produce the underlying databases that were used to perform each study.

**Response:**

CSXT specifically objects to the vague, ambiguous, and undefined term “locomotive spare margin.” CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable scope of time. M&G’s request that CSXT produce “underlying databases that were used to perform each study,” which exponentially increases the scope of this Request, is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession covering the period from 2008 to the filing of the Complaint, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 64**

Please produce any railcar spare margin study performed by or for CSXT from January 1, 2003 to the present that includes (in whole or in part) railcars used: (a) in coal service;

and/or (b) in other service to, from or through the SARR states. In addition, please produce the databases that were used to perform each study.

**Response:**

CSXT specifically objects to the vague, ambiguous, and undefined term “railcar spare margin.” CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable scope of time. M&G’s request that CSXT produce “underlying databases that were used to perform each study,” which exponentially increases the scope of this Request, is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession covering the period from 2008 to the filing of the Complaint, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 65**

Please produce documents or data, in a computer-readable format to the extent available, which provide the following information for each crew district in the SARR States:

- a. Each crew district identified by "from" and "to" stations;
- b. The route miles in each such crew district; and
- c. The number of locomotive units per train by train type (i.e., coal, general freight, automotive, intermodal, etc.) and the extent to which the locomotive units are in a distributed power train configuration

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data

and documents are kept in the ordinary course of business. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 66**

Please identify all origins where CSXT pays an outside contractor or third party to load coal trains, and with respect to each such origin, please produce the following for each year 2008 to the present:

- a. Copies of all third party loading crew contracts/agreements, including negotiated rates and associated rate escalation clauses and operating provisions, as well as a description of the service performed by the contractor; and
- b. All records in CSXT's or its loading contractor's possession relating to the contractor's handling of the trains, including but not limited to the time when each train was in the possession or under the control of the loading contractor.

**Response:**

Subject to and without waiving the General Objections, CSXT responds that it currently does not pay any outside contractor or third party to load coal trains.

**REQUEST FOR PRODUCTION NO. 67**

Please provide a copy of any CSXT operating rules related to the special handling of hazardous materials (provide the requested information by class of hazardous material), including, but not limited to, rules related to:

- a. Placement of cars containing hazardous materials in a train;
- b. The number and location of buffer cars required, if any, when handling hazardous materials in trains; and
- c. Special routing instructions for trains containing hazardous materials.

**Response:**

CSXT specifically objects to this Request for Production to the extent it calls for disclosure of Sensitive Security Information ("SSI"). Subject to and without waiving this

objection and the General Objections, CSXT states that it handles hazardous materials in accordance with all applicable regulations, including FRA and PHMSA regulations. CSXT will produce non-privileged, responsive documents in its possession that do not contain SSI, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 68**

For each CSXT rail yard referred to in Interrogatory No. 7, please produce documents sufficient to identify switch crew assignments, hump crew assignments, Local Train assignments, the number of cars handled over each hump yard per day and the number of hazardous material cars handled at each hump yard per day which by-pass the hump operation at each yard.

**Response:**

CSXT specifically objects to this Request for Production to the extent it calls for disclosure of Security Sensitive Information (“SSI”). Subject to and without waiving this objection and the General Objections, CSXT will produce non-privileged, responsive documents in its possession that do not contain SSI, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 69**

Please produce documents that contain the information requested by Interrogatory No. 8.

**Response:**

CSXT specifically objects to this Request for Production to the extent it calls for disclosure of Sensitive Security Information (“SSI”). CSXT specifically objects to this Interrogatory to the extent it calls for disclosure of Sensitive Security Information (“SSI”). Subject to and without waiving this objection and the General Objections, CSXT states that it handles hazardous materials in accordance with all applicable federal regulations, including FRA and PHMSA regulations. CSXT will produce any additional non-privileged, responsive

documents in its possession that do not contain SSI, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 70**

Please produce copies of any documents, reports, analyses or studies provided to any Federal or state agencies which discuss or describe CSXT's compliance with regulations for handling, routing or proposed routing of hazardous materials.

**Response:**

CSXT specifically objects to this Request for Production to the extent it calls for disclosure of Sensitive Security Information ("SSI"). CSXT further objects to this Request as seeking information that is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. M&G's vague request for any "documents, reports, analyses or studies" created at any time that discuss or describe CSXT's compliance with federal regulations has no conceivable relevance to the issues in this case.

**REQUEST FOR PRODUCTION NO. 71**

Please produce a copy of CSXT's rules pertaining to train handling, including but not limited to measures for conserving fuel.

**Response:**

CSXT specifically objects to the vague and undefined term "train handling" and undefined and overbroad term "pertaining to." CSXT further objects to the term "pertaining to" as undefined, vague, ambiguous, and potentially overbroad. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 72**

Please produce documents, in a computer-readable format to the extent available, which describe (a) how CSXT determines the dispatch priority given to each train type (*e.g.*, doublestack, priority intermodal, through, general freight, unit coal, *etc.*); and (b) CSXT's methodology for scheduling all trains by train type.



**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this objection and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 73**

Please produce all agreements between CSXT and Norfolk Southern Railway Company ("NS") or their affiliates, and any amendments thereto, implementing the grant to CSXT of equal access to the MGA coal region in connection with the Conrail control transaction approved by STB in Finance Docket No. 33388 (Decision No. 89, Ordering Paragraph 26), including, but not limited, to agreements governing CSXT's and NS's operations on the MGA lines and any payments made between CSXT and NS related to capital improvements, maintenance expenses and/or operating expenses on the MGA lines.

**Response:**

CSXT objects to this Request to the extent it calls for disclosure of confidential agreements that may require CSXT to provide notice to other parties before disclosure to M&G. CSXT further objects to the characterization of rights (and responsibilities) it acquired in the Conrail transaction as "grants" – CSXT's rights with respect to former Conrail assets were acquired as part of a bargained-for exchange, and CSXT paid valuable consideration for those rights and other assets. Subject to and without waiving the General Objections, CSXT responds that, after providing any necessary notice to third parties, it will produce non-privileged, responsive documents in its possession, to the extent they exist and can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 74**

Please produce all documents prepared from January 1, 2003 to date related to any planned capacity enhancements or capital improvements on CSXT rail lines in the SARR States, including, but not limited, to documents containing estimated or actual construction costs and documents related to changes in rail rates or rail pricing strategy, in connection with any such plans.

**Response:**

CSXT specifically objects to this Request as overbroad and unduly burdensome as it could literally encompass almost every engineering or marketing document prepared since 2003 in CSXT's possession. This is neither a reasonable scope of time nor a reasonable scope of subject matter. CSXT also objects to the request for "all" documents "related to" changes in rail rates or rail pricing strategy as vague, ambiguous, and overbroad. CSXT further objects to the request for "documents related to changes in rail rates or rail pricing strategy" as irrelevant to this proceeding and having no bearing on whether the Challenged Rates are reasonable under the stand-alone cost procedures established by the Board. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession covering the period of 2008 to the filing of the Complaint.

**REQUEST FOR PRODUCTION NO. 75**

Please produce the following for all joint facility or joint use agreements (including, but not limited, to trackage rights agreements, joint or common ownership agreements and lease agreements and any amendments thereto) between CSXT and any other rail carrier or other entity applicable to any of the railroad lines and/or facilities in the SARR States:

- a. Copies of all agreements (including all amendments and supplements);
- b. Copies of all bills from 2008 to the present (including all supporting documentation and data);
- c. The CSXT density over the joint facility for 2008 to the present; and,
- d. The density of all other rail carriers or entities over the joint facility for 2008 to the present.

**Response:**

CSXT specifically objects to M&G's request for production of "all" agreements and bills as unduly burdensome and overbroad. CSXT also objects to the request to the extent it calls for production of confidential agreements that may require CSXT to provide notice to other parties before disclosure to M&G. Subject to and without waiving these specific objections or the General Objections, CSXT responds to this Request as follows. CSXT will make a reasonably limited number of joint facility or joint use agreements available for M&G's inspection. CSXT will produce data from which M&G can select particular joint facility and joint use agreements for inspection. CSXT will make individual joint facility and joint use agreements available for inspection by M&G counsel and/or consultants at CSXT's headquarters in Jacksonville upon request, which should be made far enough in advance for CSXT to evaluate and satisfy its contractual obligations to notify other parties to the joint facility or joint use agreement. As for subparts c and d, CSXT responds that it will produce non-privileged, responsive documents related to trailers and containers purchased or leased by CSXI since 2008, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 76**

For each year or partial year 2006 to the present, please produce documents that contain the following information, in a computer-readable format to the extent available, for each of the end-of-train telemetry devices ("EOTD") used on any trains that traverse any portion of the SARR States:

- a. The date of purchase;
- b. The original cost and the cost of any additions and betterments;
- c. The debt rate as a percent;
- d. The financing terms (in years);
- e. The annual depreciation;
- f. The annual depreciation rate as a percent;
- g. The salvage value as a percent; and
- h. The accumulated depreciation:

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable scope of time and instead seeks information since 2006. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession from 2008 to the filing of the Complaint that can be located after a reasonable search.

**REQUEST FOR PRODUCTION NO. 77**

Please produce documents for each year or partial year 2006 to the present that contain the following, in a computer readable format, for each freight car purchased or leased by CSXT (including freight cars currently on order and privately-owned freight cars leased by CSXT that maintain the private owner's car initial and number):

- a. Initial and number;
- b. Manufacturer;
- c. Lessor, if leased;
- d. AAR car type;
- e. Tare weight;
- f. Purchase or order date, if purchased;
- g. Lease or order date, if leased;
- h. Total purchase price, if purchased;
- i. If leased, the type of lease (e.g., capital, operating, etc.) and term;
- j. If leased, the amount and frequency of lease payments;
- k. If purchased, the AFE applicable to each purchased freight car; and
- l. If leased, the lease agreement including all supplements, amendments, exhibits and applicable schedules.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request

as overbroad and unduly burdensome, in part because it is not limited to a reasonable scope of time and instead seeks information since 2006. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession from 2008 to the filing of the Complaint that can be located after a reasonable search. Also subject to its objections, CSXT will produce a list of responsive leased freight cars, from which M&G may select a reasonable number of leases it wishes to review.

**REQUEST FOR PRODUCTION NO. 78**

Please produce documents for each year or partial year 2006 to the present that contain the following, in a computer readable format, for each trailer (chassis) or container purchased or leased by CSXT (including trailers/containers currently on order and privately-owned trailers and containers leased by CSXT):

- a. Initial and number;
- b. Lessor, if leased;
- c. Tare weight;
- d. Purchase or order date, if purchased;
- e. Lease or order date, if leased;
- f. Total purchase price, if purchased;
- g. If leased, the type of lease (e.g., capital, operating, etc.) and term;
- h. If leased, the amount and frequency of lease payments;
- i. If purchased, the AFE applicable to each purchased trailer or container; and
- j. If leased, the lease agreement including all supplements, amendments, exhibits and applicable schedules.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by identifying particular trailers or containers and compiling and organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable scope of time. Subject to and without waiving these specific objections or the General Objections, CSXT responds that CSXT has not purchased or

leased trailers or containers from 2006 to the filing of the Complaint, and refers M&G to CSXT's response to Request for Production 79.

**REQUEST FOR PRODUCTION NO. 79**

Please produce documents for each year or partial year 2006 to the present, that contain the following, in a computer readable format if available, for each trailer (chassis) or container purchased or leased by CSXI (including privately-owned trailers or containers leased by CSXI and trailers or containers currently on order):

- a. Initial and number;
- b. Lessor, if leased;
- c. Tare weight;
- d. Purchase or order date, if purchased;
- e. Lease or order date, if leased;
- f. Total purchase price, if purchased;
- g. If leased, the type of lease (e.g., capital, operating, etc.) and term;
- h. If leased, the amount and frequency of lease payments;
- i. If purchased, the AFE applicable to each purchased trailer or container; and
- j. If leased, the lease agreement including all supplements, amendments, exhibits and applicable schedules.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome, in part because it is not limited to a reasonable scope of time and instead seeks information since 2006. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession from 2008 to the filing of the Complaint that can be located after a reasonable search. Also subject to its objections, CSXT will produce a list of

responsive leased trailers and containers, from which M&G may select a reasonable number of leases it wishes to review.

**REQUEST FOR PRODUCTION NO. 80**

Please produce documents sufficient to describe, in detail, all facilities, equipment, infrastructure or other physical assets of any kind, other than those that are described in Request for Production No. 79, that are or have been owned or leased by CSXI, and used by CSXI in connection with the provision of services for which it receives revenue, for each year or partial year 2006 to the present.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome in that it calls for documents that describe “in detail,” the “physical assets of any kind . . . that are or have been owned or leased by CSXI.” Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent they exist and can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 81**

Please produce documents for each year or partial year 2006 to the present, that contain the following, in a computer readable format if available, for each Auto Rack Car and/or Auto Rack which attaches to a flat car purchased or leased by CSXT or TDSI (including privately-owned Auto Rack Cars leased by CSXT or TDSI and Auto Rack Cars currently on order):

- a. Initial and number;
- b. Lessor, if leased;
- c. Tare weight;
- d. Purchase or order date, if purchased;
- e. Lease or order date, if leased;
- f. Total purchase price, if purchased;

- g. If leased, the type of lease (e.g., capital, operating, etc.) and term;
- h. If leased, the amount and frequency of lease payments;
- i. If purchased, the AFE applicable to each purchased trailer or container; and
- j. If leased, the lease agreement including all supplements, amendments, exhibits and applicable schedules.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by gathering, compiling and organizing data, documents, or information in a manner different from how they are kept in the ordinary course of business. Subject to and without waiving this specific objection or its General Objections, CSXT responds that it will produce responsive, non-privileged documents related to auto rack cars owned by CSXT, to the extent they exist and can be located in a reasonable search. Also subject to its objections, CSXT will produce a list of responsive leased auto rack cars, from which M&G may select a reasonable number of leases it wishes to review. Further subject to its objections, CSXT responds that TDSI does not own or lease auto rack cars.

**REQUEST FOR PRODUCTION NO. 82**

Please produce documents sufficient to describe, in detail, all facilities, equipment, infrastructure or other physical assets of any kind, other than those that are described in Request for Production No. 81, that are or have been owned or leased by TDSI, and used by TDSI in connection with the provision of services for which it receives revenue, for each year or partial year 2006 to the present.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by gathering, compiling and organizing data, documents or information in a manner different from how they are kept in the ordinary course of business. CSXT also objects to M&G's request for information before 2008 as overbroad and unduly burdensome. CSXT further objects to this Request as overbroad and unduly burdensome in that it calls for documents



that describe “in detail,” the “physical assets of any kind . . . that are or have been owned or leased by TDSI.” Furthermore CSXT objects to this Request as unduly burdensome and irrelevant to the extent that it requests detailed internal cost data on TDSI operations. Subject to and without waiving these specific objections or its General Objections, CSXT responds that it will produce responsive, non-privileged documents related to assets owned or leased by TDSI to the extent they exist and can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 83**

Please produce documents for each year or partial year 2006 to the present, that contain the following, in a computer readable format if available, for each freight car purchased or leased by TRANSFLO (including privately-owned freight cars leased by TRANSFLO and freight cars currently on order):

- a. Initial and number;
- b. Lessor, if leased;
- c. Tare weight;
- d. Purchase or order date, if purchased;
- e. Lease or order date, if leased;
- f. Total purchase price, if purchased;
- g. If leased, the type of lease (e.g., capital, operating, etc.) and term;
- h. If leased, the amount and frequency of lease payments;
- i. If purchased, the AFE applicable to each purchased trailer or container; and
- j. If leased, the lease agreement including all supplements, amendments, exhibits and applicable schedules.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by gathering, compiling and organizing data, documents or information in a manner different from how they are kept in the ordinary course of business. CSXT also objects to M&G’s request for information before 2008 as overbroad and unduly burdensome. Furthermore CSXT objects to this Request as unduly broad and burdensome. CSXT further objects to this Request as irrelevant to the extent that it requests detailed data on TRANSFLO owned or leased freight cars. CSXT also objects to this Request to the extent that is duplicative of Request No.

77. Materials produced by CSXT in response to Request No. 77 are also responsive to this Request. Subject to and without waiving these specific objections or its General Objections, CSXT responds that it will produce lists and information sufficient to identify rail cars purchased or leased by CSXT from 2008 through the filing of the Complaint, to the extent they exist. M&G may use the list of leased rail cars to select a reasonable number of leased cars whose leases CSXT will make available for M&G's review. Further subject to its objections, CSXT states that TRANSFLO does not own or lease freight rail cars.

#### **REQUEST FOR PRODUCTION NO. 84**

Please produce documents sufficient to describe, in detail, all facilities, equipment, infrastructure or other physical assets of any kind, other than those that are described in Request for Production No. 83, that are or have been owned or leased by TRANSFLO, and used by TRANSFLO in connection with the provision of services for which it receives revenue, for each year or partial year 2006 to the present.

#### **Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by gathering, compiling and organizing data, documents, or information in a manner different from how they are kept in the ordinary course of business. CSXT further objects to the overbroad and unduly burdensome request to describe "in detail . . . all facilities, equipment, infrastructure, or other physical assets of any kind." CSXT also objects to this Request as unduly burdensome and irrelevant to the extent that it requires detailed internal cost data on TRANSFLO operations. Subject to and without waiving these specific objections or its General Objections, CSXT responds that it will produce responsive, non-privileged documents to the extent they exist and can be located in a reasonable search.

#### **REQUEST FOR PRODUCTION NO. 85**

Please produce all railcar repair and maintenance records, reports, databases and related documents which include or record rail car repair and maintenance expenses for each year or partial year 2008 to the present, including but not limited to all input data to

schedules 415 and 755 of CSXT's R-1, and the total rail car-miles corresponding to these repair and maintenance expenses, in a computer readable format to the extent possible, for all freight cars in the CSXT system. To the extent that these records, reports and databases do not include all car repair and maintenance amounts reported in R-1 Schedule 410, please identify the expenses that are excluded.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to the request for production of "all" records as overbroad and unduly burdensome. CSXT also objects to M&G's overbroad and unduly burdensome request for all "related documents." Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession that can be located in a reasonable search, to the extent that they exist.

**REQUEST FOR PRODUCTION NO. 86**

For each year 2008 to the present, please produce documents which contain the following information (in a computer-readable format, if available) with respect to each shipper-owned and shipper-leased railcar and each intermodal and automotive railcar provided by a third party moving over any part of the CSXT system located in the SARR States:

- a. Initial and number of the car;
- b. The AAR car type;
- c. The length, tare weight, load capacity (number of containers, trailers or automobiles) and load limit (tons) of the car (for intermodal and automotive cars only);
- d. The cost to CSXT for use of the car;
- e. The terms of any mileage allowance agreement covering the car;
- f. Whether the car is subject to a zero-based mileage agreement;
- g. Whether the car hire paid on the car is subject to refund of the payments under certain contractual conditions; and
- h. The year of manufacture of the car.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT also objects to this Request as overbroad and unduly burdensome. Subject to and without waiving these specific objections or the General Objections, CSXT refers M&G to Schedule 414 in CSXT's R-1.

**REQUEST FOR PRODUCTION NO. 87**

Please produce all railcar maintenance agreements with outside contractors, including all supplements, attachments, exhibits and schedules, for each year or partial year 2006 to the present, for all the cars on CSXT's system. Also provide the documents identifying (a) the dollar amount paid for each service performed under the agreement by individual car or by car type; and (b) the number of car-miles corresponding to the amounts referenced in Request for Production No. 87, subpart a.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT also objects to this Request as overbroad and unduly burdensome. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce a list of maintenance agreements and will make individual maintenance agreements available for inspection by M&G counsel and/or consultants at CSXT's headquarters in Jacksonville upon request, which should be made far enough in advance for CSXT to evaluate its contractual obligations to notify other parties to the contract.

**REQUEST FOR PRODUCTION NO. 88**

Please produce all CSXT locomotive maintenance and repair records and/or reports and related documents for each year or partial year 2006 to the present, which provide locomotive maintenance, repair and overhaul expenses by locomotive or locomotive type or series (or by other basis in which records are kept) and the total locomotive unit-miles

corresponding to these maintenance, repair and overhaul expenses for the locomotives identified in response to Request for Production No. 52 above. To the extent that these records and/or reports do not include all locomotive repair, maintenance, and overhaul amounts reported in R-1 Schedule 410, please identify those expenses that are not included.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 89**

Please produce all locomotive maintenance agreements, including all supplements, attachments, exhibits and schedules, with outside contractors and provide, for each year or partial year 2006 to the present for all locomotives in the CSXT fleet under such maintenance agreements: (a) the amount paid for each locomotive or by locomotive type in total and broken down by each service performed under the agreement; and (b) the number of locomotive unit miles corresponding to the amounts listed above.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT also objects to the request to the extent it calls for production of confidential agreements that may require CSXT to provide notice to other parties before disclosure to M&G. CSXT further objects to the request for "all" locomotive maintenance agreements as overbroad and unduly burdensome. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will

produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 90**

Please produce documents that show in detail all items of expense and the associated dollar amount of each expense item included in CSXT's R-1 Annual Report to the STB Schedule 410, Column (c), Lines 202, 403 and 411, for years 2008 and 2009.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 91**

Please identify all locations in the SARR States where CSXT or a third party/contractor acting for or on behalf of CSXT performs fueling of locomotives, and produce documents sufficient to show the following information with respect to locomotive fueling at each location:

- a. The source(s) of the fuel, including the name and location of the vendor(s) who provide the fuel to CSXT and the refinery(ies) or other location from which the fuel is obtained;
- b. The method and cost of transporting and dispensing the fuel from the refinery(ies) or other locations from which the fuel is obtained to the location where the fueling of locomotives is performed;
- c. The method by which fuel is dispensed into locomotives, *i.e.* from fixed fueling platforms or by direct-to-locomotive (tanker truck) service; and
- d. A description of the facilities and equipment (including but not limited to fuel storage tanks) at each location where CSXT has fixed fueling platforms

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data

and documents are kept in the ordinary course of business. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 92**

Please produce copies of all contracts/agreements with third parties related to the performance of locomotive fueling functions for all locomotives that are used on any portion of the CSXT system located in the SARR States.

**Response:**

Subject to and without waiving the General Objections, CSXT responds that it will make available for inspection non-privileged, responsive documents in CSXT's possession, to the extent that they exist. CSXT will produce data from which contracts with third parties for locomotive fueling can be identified. CSXT will make individual contracts available for inspection by M&G counsel and/or consultants at CSXT's headquarters in Jacksonville upon request, which should be made far enough in advance for CSXT to evaluate and fulfill its contractual obligations to notify other parties to the contract.

**REQUEST FOR PRODUCTION NO. 93**

For each of the years 2008 to the present, please produce the detailed annual and quarterly Wage Forms A and B that support the summary Wage Forms A and B provided to the STB.

**Response:**

CSXT specifically objects to M&G's vague and ambiguous request that CSXT provide "Wage Forms A and B" that support the "Wage Forms A and B" provided to the STB. Subject to and without waiving the General Objections, CSXT responds that it will produce the annual Wage Forms A and B it has provided to the STB.

**REQUEST FOR PRODUCTION NO. 94**

Please produce for each year or partial year 2008 to the present documents (in a computer readable format) which show for each CSXT individual locomotive engineer, conductor, dispatcher and equipment inspector, the number of shifts worked per year, their length of employment, and their annual compensation.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as calling for sensitive, highly confidential, and private information about individuals' compensation. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 95**

Please produce documents sufficient to show the applicable wage rates for CSXT's maintenance of way employees by job classification for each year 2008 to the present.

**Response:**

Subject to and without waiving the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 96**

Please produce documents showing the amount(s) paid by CSXT to a recruitment firm or firms for executive search service in each of the years 2006 to the present. The documents should include the amount paid by individual, the position of the individual hired and the basis for the recruitment firm's fee schedule. As used in this Request, the term "executive" means those employees so defined or grouped in CSXT's Wage Forms A and B.



**Response:**

Subject to and without waiving the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 97**

Please provide documents sufficient to show CSXT's existing maintenance-of way plan and staffing in the SARR States including the maintenance-of-way districts and/or crews employed by CSXT to maintain the (a) track, (b) signals and communications facilities, (c) bridges and (d) all other facilities and structures in the SARR States, the number of CSXT employees by job classification presently assigned to each maintenance-of-way district or crew on both a permanent and a seasonal basis, and any changes in the maintenance districts, crews, and number and classification of employees that have occurred since January 1, 2003.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome by failing to limit the Request to a reasonable scope of time or information requested to the extent it calls for "any changes in the maintenance districts, crews, and number and classification of employees that have occurred since January 1, 2003." CSXT also objects to this Request as vague and ambiguous to the extent that it calls for "any changes." CSXT will interpret this Request as calling for information about significant general changes to the designations of the maintenance and crew districts, including the numbers and classifications of employees assigned to these districts, to the extent such changes to classifications are specified in the district designations. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce non-privileged,

responsive documents created from 2008 to the filing of the Complaint in its possession, to the extent that they exist and can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 98**

For maintenance of way (including inspection of bridges, tunnels and highway crossings) and/or construction of or on CSXT lines in the SARR States performed by contractors for the period from 2007 to the present, please produce copies of all bills for services, documents which contain a description of the line location of the contract inspection, repairs (including vegetation control, rail grinding and other maintenance items) and/or construction, and the details of the work performed, including labor and materials. If CSXT does not maintain copies of any of these documents, produce whatever documents CSXT does maintain or has available to it describing the costs incurred by CSXT and the details of the work performed, in a computer readable form if applicable (including all necessary documentation).

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome to the extent the Request calls for “copies of all bills for services.” CSXT further objects to this Request as overbroad and unduly burdensome, in part because it is not limited to a reasonable scope of time and instead seeks information since 2007. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will make a reasonably limited number of maintenance of way or construction bills available for M&G’s inspection. CSXT will produce data from which M&G can select particular maintenance of way or construction bills for inspection. CSXT will make individual maintenance of way or construction bills available for inspection by M&G counsel and/or consultants at CSXT’s headquarters in Jacksonville upon request.

#### **REQUEST FOR PRODUCTION NO. 99**

Please provide documents showing the amounts paid by CSXT for training employees by year from 2007 to the present and the number of employees trained including, but not limited to, training employees hired for each of the following positions:

- a. Experienced locomotive engineers;
- b. Experienced locomotive conductors;
- c. Locomotive conductors training to become engineers;
- d. Novice conductors;
- e. Train dispatchers;
- f. Information technology programmers;
- g. Supervisors of maintenance operations;
- h. Maintenance crew members; and
- i. Equipment inspectors.

The amounts paid by CSXT for training employees should include, but not be limited to, wages paid per employee during classroom training, wages paid per employee during field or on the job training, fringe benefits paid during classroom training, fringe benefits paid during field or on the job training, costs for classroom training per employee, costs for on the job training or field training per employee, expenses for room and board during classroom training and during field training per employee. Also please provide the number of weeks of classroom training required for each type of employee and the number of weeks of on the job or field training required for each type of employee.

#### **Response:**

CSXT objects to this Request as overbroad and unduly burdensome, in part because it is not limited to a reasonable scope of time and instead seeks information since 2007. Subject to and without waiving this objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession from 2008 to the filing of the Complaint that can be located after a reasonable search.

#### **REQUEST FOR PRODUCTION NO. 100**

Please produce documents showing the ad valorem taxes that CSXT paid for each year 2008 to the present to each of the SARR States, together with documents showing the total route-miles and total track-miles CSXT owned or owns in the SARR States for each year 2008 to the present. Also, produce documents showing how the amount of ad valorem taxes due were calculated by state in each year.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to M&G's request for "documents showing how the amount of ad valorem taxes due were calculated by state in each year" to the extent that it requests publicly available information and information that is not within CSXT's possession, custody, or control. Subject to and without waiving this objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 101**

Please provide documents for each year or partial year 2008 to the present which provide CSXT's loss and damage costs separately for all commodities CSXT carries on a system-wide basis.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 102**

Please provide information related to any liability expense incurred as a result of CSXT's handling hazardous materials for each year 2007 to the present. For each liability expense incurred, please provide the following:

- a. The total amount of the liability expense;

- b. The STCC of hazardous material involved with the incurrence of the expense;
- c. The number of rail cars involved with the incurrence of the expense; and
- d. Any reimbursement of all or a portion of the liability expense, or other reimbursement which offset all or a portion of the liability expense received by CSXT from any third party.

**Response:**

CSXT objects to this Request as overbroad and unduly burdensome, in part because it is not limited to a reasonable scope of time and instead seeks information since 2007. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession from 2008 to the filing of the Complaint that can be located after a reasonable search.

**REQUEST FOR PRODUCTION NO. 103**

Please provide information related to any additional operating or administrative expenses incurred by CSXT for each year from 2007 to the present as a result of handling hazardous materials, including, but not limited to, items such as switching expenses, insurance expenses, station clerical, car cleaning expenses, accident clean-up expenses and/or billing expenses. For each expense identified, please provide:

- a. The total amount of the annual expense for each year;
- b. The class or classes of hazardous material to which the expense applies; and
- c. The number of annual carloads handled each year to which the expense applies.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome, in part because it is not limited to a reasonable scope of time and instead seeks information since 2007. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged,

responsive documents in its possession from 2008 to the filing of the Complaint that can be located after a reasonable search.

**REQUEST FOR PRODUCTION NO. 104**

Please provide documents identifying the maintenance-of-way equipment owned or leased by CSXT that is assigned to the maintenance-of-way districts identified in response to Request for Production No. 97. For each piece of owned equipment, please provide the original cost and the year purchased. For each piece of leased equipment, please provide a copy of the lease and the lease payment schedule. For each piece of equipment, either leased or owned, please provide documents that show the annual cost of maintenance and fueling.

**Response:**

CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this objection and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 105**

Please produce the following agreements:

- a. The "operating agreement" between CSXT and CSXI for reimbursement of "an amount that approximates actual costs" as described in CSXT's 2009 Class I Annual Report Form R-1, page 15;
- b. The agreement between CSXT and TDSI related to the "charges from TDSI for services to the Respondent at automobile ramps" as described in CSXT's 2009 Class I Annual Report Form R-1, page 15;
- c. The agreement between CSXT and TRANSFLO related to the "charges from TRANSFLO for services to the Respondent at bulk commodity facilities" that are "calculated based on direct costs" as described in CSXT's 2007 Class I Annual Report Form R-1, page 14C;
- d. The agreement between CSXT and CSX Technology related to the "data

processing charges" that are "based on a mark-up of direct costs" as described in CSXT's 2009 Class I Annual Report Form R-1, page 15; and

e. The agreement between CSXT and CSX Corporation related to the "management service fee charged by CSX as compensation for certain corporate services provided to Respondent" that are "calculated as a percentage of the Respondent's revenue" as described in CSXT's 2009 Class I Annual Report Form R-1, page 15.

**Response:**

Subject to and without waiving its General Objections, CSXT responds that it will produce responsive, non-privileged documents, to the extent they exist and can be located and produced in a reasonable search.

**REQUEST FOR PRODUCTION NO. 106**

Please produce documents identifying and explaining for each year or partial year 2008 to the present:

- a. The procedures by which CSX Corporation develops bills or invoices to CSXT for the "management service fee" referenced in CSXT's 2009 Class I Annual Report Form R-1, page 15;
- b. The procedures and calculations underlying the development of the "percentage of Respondent's revenue" referenced in CSXT's 2009 Class I Annual Report Form R-1, page 15; and
- c. The STB account(s) in which CSXT records the payments made to CSX Corporation for the "management service fee" referenced in CSXT's 2009 Class I Annual Report Form R-1, page 15.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by gathering, compiling and organizing data, documents, or information in a manner different from how they are kept in the ordinary course of business. Subject to and without waiving this specific objection or its General Objections, CSXT responds that it will produce responsive, non-privileged documents in its possession, to the extent they exist and can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 107**

Please produce documents identifying and explaining for each year or partial year 2008 to the present:

- a. The procedures by which CSX Technology develops bills or invoices to CSXT for the "data processing charges" referenced in CSXT's 2009 Class I Annual Report Form R-1, page 15;
- b. A detailed description of the services provided by CSX Technology to CSXT;
- c. CSX Technology's "direct costs" referenced in CSXT's 2009 Class I Annual Report Form R-1, page 15;
- d. The procedures and calculations underlying CSX Technology's development of the "mark-up of direct costs" referenced in CSXT's 2009 Class I Annual Report Form R-1, page 15; and
- e. The STB account(s) in which CSXT records the payments made to CSX Technology for the "data processing charges" referenced in CSXT's 2009 Class I Annual Report Form R-1, page 15.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by gathering, compiling and organizing data, documents, or information in a manner different from how they are kept in the ordinary course of business. CSXT also objects to the term "the procedures by which CSX Technology develops the bills or invoices" as vague and ambiguous. CSXT further objects to this Request as unduly burdensome. CSXT also objects to this Request as seeking irrelevant information, to the extent it seeks CSX Technology internal cost data. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce responsive, non-privileged documents sufficient to identify the services provided and amounts charged by CSX Technology to CSXT, to the extent they exist and can be located in a reasonable search.



## **REQUEST FOR PRODUCTION NO. 108**

Please produce documents identifying and explaining the procedures by which CSXT develops the bills or invoices to CSXI, TDSI and TRANSFLO for rail-related transportation services. For each component of each CSXT bill or invoice, please identify and produce documents identifying the STB accounts in which CSXT records the payments received from CSXI, TDSI and TRANSFLO, as well as the following information for CSXI, TDSI and TRANSFLO for each year or partial year 2008 to the present:

- a. Total revenues;
- b. Amounts received to cover transloading costs;
- c. Amounts received to cover payments for costs associated with other transportation modes, e.g., over-highway truck costs, water vessel costs, etc.;
- d. Amounts paid to CSXT
- e. Overhead and administrative costs; and
- f. Margin or profit.

### **Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by gathering, compiling and organizing data, documents, or information in a manner different from how they are kept in the ordinary course of business. CSXT also objects to the Request for documents “explaining the procedures by which CSXT develops the bills or invoices” as vague and ambiguous. CSXT further objects to the unduly burdensome nature of this Request which instructs CSXT to inspect “each component of each CSXT bill or invoice” to provide additional information to M&G. CSXT also specifically objects to subpart (a) as irrelevant to matters at issue in this case. Furthermore CSXT objects to subparts (b), (c), (e), and (f) of this Request as unduly burdensome and irrelevant to the extent that they request detailed financial and internal cost data on non-CSXT operations. Any potential relevance of the requested information is outweighed by the burden that would be incurred in attempting to find the detailed information requested in the records of affiliated companies. CSXT further objects to subparts (b), (c), and (e) as vague and ambiguous. For purposes of responding to this Request,

CSXT will construe subparts (b) and (c) as seeking information concerning the costs to the respective affiliate for loading and unloading, and the respective affiliate's costs associated with over-highway trucks or water vessels. Subject to and without waiving these specific objections or its General Objections, CSXT responds that it will produce non-privileged documents that are responsive to subparts (a) through (d) to the extent they exist and can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 109**

Please provide documents sufficient to show the following for each intermodal yard or terminal served by CSXI in the SARR States:

- a. Each asset owned or leased by CSXT;
- b. Each asset owned or leased by CSXI;
- c. Each asset owned or leased by an entity other than CSXT or CSXI; and
- d. All acquisition information and lease or other use payment information for each year or partial year 2008 to the present.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by gathering, compiling and organizing data, documents, or information in a manner different from how they are kept in the ordinary course of business. Furthermore CSXT objects to this Request as unduly burdensome and irrelevant to the extent that it requests detailed data on non-CSXT owned or leased assets at each intermodal yard or terminal served by CSXI in the United States. Any potential relevance of the requested information is outweighed by the burden that would be incurred in attempting to find the detailed information requested in the records of CSXI. Subject to and without waiving these specific objections or its General Objections, CSXT responds that it will produce responsive, non-privileged documents related to assets owned or

leased by CSXT or CSXI at intermodal yards or terminals served by CSXI in the United States, to the extent they exist and can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 110**

Please provide documents sufficient to show the following for each Automotive Distribution Center served by TDSI in the SARR States:

- a. Each asset owned or leased by CSXT;
- b. Each asset owned or leased by TDSI;
- c. Each asset owned or leased by an entity other than CSXT or TDSI; and
- d. All acquisition information and lease or other use payment information for each year or partial year 2008 to the present.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by gathering, compiling and organizing data, documents, or information in a manner different from how they are kept in the ordinary course of business. Furthermore CSXT objects to this Request as unduly burdensome and irrelevant to the extent that it requests detailed data on non-CSXT owned or leased assets. Any potential relevance of the requested information would be outweighed by the burden that would be incurred in attempting to find the detailed information requested in the records of TDSI. CSXT further objects to subpart d as vague and ambiguous. CSXT also objects to this Request as overbroad and unduly burdensome to the extent it seeks "all" acquisition or lease information or other use payment information. Subject to and without waiving these specific objections or its General Objections, CSXT responds that it will produce responsive, non-privileged documents related to assets owned or leased by CSXT or TDSI at automotive distribution centers served by TDSI in the SARR States, to the extent they exist and can be located in a reasonable search.

### **REQUEST FOR PRODUCTION 111**

Please provide documents sufficient to show the following for each bulk terminal served by TRANSFLO in the SARR States:

- a. Each asset owned or leased by CSXT;
- b. Each asset owned or leased by TRANSFLO;
- c. Each asset owned or leased by an entity other than CSXT or TRANSFLO; and
- d. All acquisition information and lease or other use payment information for each year or partial year 2008 to the present.

#### **Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by gathering, compiling and organizing data, documents, or information in a manner different from how they are kept in the ordinary course of business. Furthermore CSXT objects to this Request as unduly burdensome and irrelevant to the extent that it requests detailed data on non-CSXT owned or leased assets at each bulk terminal served by TRANSFLO in the SARR States. Any potential relevance of the requested information is outweighed by the burden that would be incurred in attempting to find the detailed information requested in the records of TRANSFLO. Subject to and without waiving these specific objections or its General Objections, CSXT responds that it will produce responsive, non-privileged documents related to assets owned or leased by CSXT or TRANSFLO at bulk terminals served by TRANSFLO, to the extent they exist and can be located in a reasonable search.

### **REQUEST FOR PRODUCTION 112**

Please produce documents sufficient to show the location, size (including square footage, number and lengths of tracks, capacity, etc.), components (such as equipment and machinery), original cost and year built for each facility located on any portion of CSXT's system in the SARR States that falls within each of the following categories of facilities:

- a. Roadway maintenance facilities;

- b. Locomotive maintenance facilities;
- c. Locomotive servicing facilities;
- d. Administrative facilities;
- e. Rail yards;
- f. Dispatch centers;
- g. Freight car repair and maintenance facilities;
- h. Scales;
- i. Wastewater treatment plants;
- j. Snowshed facilities;
- k. Train, yard and engineman facilities;
- l. Automotive Distribution Centers;
- m. Intermodal terminals and yards;
- n. River transload facilities; and
- o. Lake transload facilities.

**Response:**

CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome in that it seeks information on “original cost” without any date limitation. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION 113**

Please provide for each year 2008 to the present for each facility identified in response to Request For Production No. 112, subparts (l), (m), (n) and (o):

- a. The annual costs to operate each facility separated by function; and
- b. The annual throughput of each facility (e.g., automobiles, containers, trailers, carloads, etc.).

**Response:**

CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION 114**

Please produce documents supporting the security procedures at each location identified in response to Interrogatory Nos. 7 (i), 13 (f), 15 (d) and 17 (f) including, but not limited to, the following for each year or partial year 2006 to the present:

- a. Staffing requirements by job classification;
- b. Material requirements;
- c. Transportation requirements;
- d. Facility requirements;
- e. Other requirements not included in a, b, c or d above;
- f. The annual costs incurred for the security at each location broken down by category of expense, e.g., labor, materials, purchased services, etc.;
- g. The entity responsible for paying the annual security costs at each location, e.g., CSX Corporation, CSXT, CSXI, TDSI, TRANSFLO, etc., and the portion paid by each entity in dollars or percentages; and
- h. The STB accounts where any costs incurred by CSXT are recorded.

**Response:**

CSXT specifically objects to this Request for Production to the extent it calls for disclosure of Sensitive Security Information (“SSI”). Subject to and without waiving this objection and the General Objections, CSXT responds that it will produce non-SSI, non-

privileged, responsive documents in its possession to the extent that such documents exist and can be located in a reasonable search.

**REQUEST FOR PRODUCTION 115**

Please produce documents sufficient to describe, in detail, all personnel employed by CSXI, TDSI, and/or TRANSFLO in connection with the provision of services for which each receives freight revenue, for each year or partial year 2008 to the present, including but not limited to each employee's position and responsibilities; annual compensation (including all benefits); and for employees who do not dedicate 100% of their on-duty time to the provision of services described herein, the percentage of each such employee's time that is so dedicated.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by gathering, compiling and organizing data, documents, or information in a manner different from how they are kept in the ordinary course of business. CSXT further objects to the overbroad and unduly burdensome request to describe "all" personnel "in detail." CSXT objects to the term "in connection with the provision of services" as vague and overbroad. CSXT also objects to this Request as unduly burdensome and irrelevant to the extent that it requests detailed internal cost data on non-CSXT operations. Subject to and without waiving these specific objections or its General Objections, CSXT responds that it will produce responsive, non-privileged documents responsive to this request to the extent they exist and can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 116**

Please produce documents sufficient to describe, in detail, all services purchased by CSXI, TDSI and/or TRANSFLO from third parties that are necessary or incidental to the provision of services by each for which each receives revenue, including but not limited to all amounts paid for such third party services, for each year or partial year 2008 to the present.

**Response:**

CSXT objects to the overbroad and unduly burdensome requests to describe “all services” “in detail.” Subject to and without waiving this objection or its General Objections, CSXT responds that it will produce responsive, non-privileged documents, to the extent they exist and can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 117**

For each company identified as providing outsourced services in response to Interrogatory No. 18, please provide documents which describe the services outsourced, the fees paid for the outsourced services, and the analyses which developed the estimated and/or actual savings realized by CSX and each of its subsidiaries from such outsourcing.

**Response:**

CSXT specifically objects to this Request for the “analyses which developed the estimated and/or actual savings realized by CSX and each of its subsidiaries from such outsourcing” as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving this objection and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 118**

Please produce all documents relating to any contribution or payment by any governmental or quasi-governmental entity (including, without limitation, AMTRAK) for construction, upgrading and/or maintenance of any CSXT track, facility or structure (including bridges, at-grade highway crossings and grade separated crossings) and/or operating expenses on any of CSXT's lines located in the SARR States.

**Response:**

CSXT specifically objects to this Request as overbroad and unduly burdensome in that it seeks “all” documents without any date limitation. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will make a reasonably limited



number of agreements with governmental or quasi-governmental entities responsive to this request available for M&G's inspection. CSXT will produce data from which M&G can select particular agreements for inspection. CSXT will make individual agreements available for inspection by M&G counsel and/or consultants at CSXT's headquarters in Jacksonville upon request.

**REQUEST FOR PRODUCTION NO. 119**

Please provide documents containing the following information separately for ultrasonic rail testing and track geometry testing:

- a. The cost per mile, or other applicable unit of measure, for each year 2008 to the present; and
- b. CSXT's specifications for the frequency of such testing.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by gathering, compiling and organizing data, documents, or information in a manner different from how they are kept in the ordinary course of business. Subject to and without waiving this objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 120**

Please produce copies of the most current land valuation maps for CSXT rail lines located in the SARR States, and all documents (including but not limited to deeds or other instruments of grant or conveyance) related to the parcels identified on those maps.

**Response:**

CSXT objects to this Requests as overbroad and unduly burdensome, as it calls for production of thousands of voluminous land valuation maps as well as "all" documents "related to" identified parcels. Subject to and without waiving this objection or the General Objections,

CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 121**

Please produce documents identifying all donated rights of way and/or land grants (including easements) obtained by CSXT or CSXT's predecessors in connection with the construction of any rail lines or facilities located in the SARR States. The documents provided should include the following for each donated or easement land parcel:

- a. The CSXT parcel number;
- b. The exact location of the parcel, including county and state;
- c. Valuation section and map number;
- d. Original railroad acquiring the parcel;
- e. Type of instrument and/or title, e.g. easement, right-of-way deed, quit claim deed, condemnation, grant, etc.
- f. The size of the parcel in square feet or acres;
- g. The date of the transaction;
- h. The names of the parties to the transaction; and
- i. Any dollar amount associated with the transaction.

**Response:**

CSXT objects to this Request as overbroad and unduly burdensome, as it calls for production of documents identifying "all" donated rights of way and easements. Subject to and without waiving this objection and the General Objections, CSXT responds that it will make a reasonable number of documents responsive to this request available for inspection by M&G counsel and/or consultants at CSXT's headquarters in Jacksonville, if M&G identifies in advance a reasonably limited number of particular locations for which it wishes to review documents.

**REQUEST FOR PRODUCTION NO. 122**

Please produce all documents related to any sale, appraisal, abandonment or acquisition of land (improved and unimproved) that CSXT completed in the SARR States, including

but not limited to documents showing the location of the parcel, size of the parcel, the valuation of the parcel by CSXT, the sale or acquisition price, a description of any improvements to the parcel, the value of any improvements, the date of sale, and any characteristics of the parcel such as land use, utilities, access and topography.

**Response:**

CSXT specifically objects to this Request as overbroad and unduly burdensome in that it seeks “all” documents without any date limitation and that it seeks all documents “related to” any sale, appraisal, abandonment or acquisition. Subject to and without waiving this objection and the General Objections, CSXT responds that it will produce a list of sales, appraisals, abandonments and land acquisitions from which M&G can select a reasonably limited number of records for inspection. CSXT will make individual records available for inspection by M&G counsel and/or consultants at CSXT’s headquarters in Jacksonville upon request.

**REQUEST FOR PRODUCTION NO. 123**

Please produce documents sufficient to show the following for construction projects that CSXT has undertaken since January 1, 2007:

- a. Construction standards, details and project specifications, including but not limited to: track structures and designs; bridges; culverts; yard and roadway buildings; fueling facilities; maintenance facilities and waste water treatment facilities;
- b. Whether or not the project was performed “under traffic”, i.e., traffic continued to move through the construction area;
- c. Estimating procedures for track construction projects; and
- d. Estimating procedures for non-track construction projects.

**Response:**

CSXT specifically objects to this Request as overbroad and unduly burdensome in that it seeks documents dating from 2007. Subject to and without waiving this objection and the General Objections, CSXT responds that, as for subparts a and b, it will produce non-privileged, responsive documents in its possession from 2008 to the filing of the Complaint that can be located after a reasonable search. As for subparts c and d, CSXT responds that there are no

standard estimating procedures for track construction projects or non-track construction projects. Each track and non-track construction project is affected by a variety of factors, and there are no “standard” procedures for estimating each unique project.

**REQUEST FOR PRODUCTION NO. 124**

Please produce all of CSXT's price list books governing prices for construction and maintenance materials (including but not limited to weights of rail from 115 lb to 141 lb, turnouts, ties, fasteners, lubricators, plant and field welds, fencing, roadway signs, track geometry cars, hot bearing and dragging equipment detectors, and related tools), or other documents utilized by CSXT's engineering personnel for estimating costs of maintenance and construction projects for each year or partial year 2007 to the present. To the extent that the charges for transportation and delivery of materials are not included in the prices shown, please produce documents sufficient to show such charges for all materials.

**Response:**

CSXT specifically objects to this Request as overbroad and unduly burdensome in that it seeks documents dating from 2007. CSXT further objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession from 2008 through the filing of the Complaint, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 125**

Please produce documents sufficient to show the following with respect to grading construction activities undertaken or proposed at any time, or currently ongoing, on any portion of CSXT's system located in SARR States:

- a. Number of cubic yards of excavation of:
  - i. Common earth;
  - ii. Loose rock;
  - iii. Solid rock; and
  - iv. Unclassified material;
- b. Number of cubic yards of embankment of:
  - i. Common earth;
  - ii. Loose rock;

- iii. Solid rock; and
  - iv. Unclassified material;
- c. Number of cubic yards of borrow of:
  - i. Common earth;
  - ii. Loose rock;
  - iii. Solid rock; and
  - iv. Unclassified material;
- d. Grading construction data for each construction specification measured by CSXT including without limitation, roadbed width, side slope ratio, track center distance, presence of access roads, impact of grading activities on right-of-way width, use of geotextiles, use of water, soil stabilization, and width and depth of side ditches;
- e. Number of route miles, separated between single track main, double track main, triple track main, etc., corresponding to the cubic yard information described in paragraphs (i) through (iv) of Subparts (a), (b) and (c) of this Request;
- f. Number of track-miles corresponding to the cubic yards in paragraphs (i) through (iv) of Subparts (a), (b) and (c) of this Request;
- g. All of the different types of equipment (and the associated tasks) used to:
  - i. Excavate common earth;
  - ii. Excavate loose rock;
  - iii. Excavate solid rock;
  - iv. Excavate unclassified material; and
  - v. Obtain borrow material;
- h. Linear feet of pipe installed for lateral drainage;
- i. Number of cubic yards of rip rap placed for the protection of the roadway;
- j. Location, type and quantity of retaining walls;
- k. Construction method, including but not limited to the number of cubic yards of masonry or other similar material, used for retaining walls;
- l. Number of acres cleared;
- m. Number of acres grubbed; and
- n. Number of acres seeded.

**Response:**

CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome in that it seeks documents related to any

grading construction activities “undertaken or proposed” at “any time” on “any portion of CSXT’s system.” Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession for the period from January 1, 2008 to the filing of the Complaint, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 126**

To the extent CSXT incurred any of the following expenses during the years 2007 to the present, please produce documents sufficient to show the costs CSXT incurred during each year for the following:

- a. CSXT's cost per cubic yard of excavation for:
  - i. Common earth;
  - ii. Loose rock;
  - iii. Solid rock; and
  - iv. Unclassified material;
- b. CSXT's cost per cubic yard of embankment for:
  - i. Common earth;
  - ii. Loose rock;
  - iii. Solid rock; and
  - iv. Unclassified material;
- c. CSXT's cost per cubic yard of borrow for:
  - i. Common earth;
  - ii. Loose rock;
  - iii. Solid rock; and
  - iv. Unclassified material;
- d. CSXT's cost per cubic yard of rip rap (installed), separated between material and labor;
- e. CSXT's unit cost for each material type used for retaining walls, separated between material and labor;
- f. CSXT's cost per acre for clearing timber and any credits reflecting the sale of timber;
- g. CSXT's cost per acre for grubbing;
- h. CSXT's cost per acre for seeding;

- i. CSXT's cost per acre for weed spray (including necessary chemicals);
- j. CSXT's cost per acre or per mile for brush cutting; and
- k. CSXT's cost per square yard for geotextile fabric.

**Response:**

Subject to and without waiving the General Objections, CSXT incorporates by reference its response to Request for Production No. 125.

**REQUEST FOR PRODUCTION NO. 127**

Please produce documents sufficient to show culvert/drainage pipe locations (*i.e.*, railroad milepost), size (diameter), length, height of cover, number of tracks crossed, type, and cost of material and installation for each, for CSXT's lines located in the SARR States.

**Response:**

CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome in that it seeks documents without any date limitation. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession from 2008 to the filing of the Complaint, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 128**

Please produce documents sufficient to show the following information with respect to ballast and sub-ballast used on CSXT's system for each of the years 2007 to the present:

- a. The average cost per cubic yard for ballast, by type;
- b. The average cost per cubic yard for the transportation and handling of ballast;
- c. The average length of haul represented by the value(s) in subpart (b) above;
- d. The average cost per cubic yard for sub-ballast, by type;
- e. The average cost per cubic yard for transportation and handling of sub-ballast;
- f. The average length of haul represented by the value(s) in Subpart (e) above;

- g. The names and locations of all quarries supplying such ballast or sub-ballast; and
- h. The unit prices from all quarries listed in response to Subpart (g).

**Response:**

CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome, in part because it seeks documents dating from 2007. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession created from 2008 through the filing of the Complaint, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 129**

Please produce documents sufficient to show the following for each construction and rehabilitation project which exceeded \$500,000 in cost and was completed by CSXT, or an outside contractor acting on CSXT's behalf, since January 1, 2007:

- a. The date the project was started;
- b. The date the project was completed;
- c. Whether the project was new construction or rehabilitation;
- d. Whether or not the project was performed "under traffic", i.e., traffic continued to move through the construction area;
- e. A complete copy of the Authorization for Expenditure ("AFE") and description of all columns and data contained with the AFEs;
- f. A complete copy of the Roadway Completion Report or any successor document; and
- g. All invoices underlying each AFE and/or Roadway Completion Report.

**Response:**

CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to



this Request as overbroad and unduly burdensome. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce a list of AFEs from which M&G can select a reasonable number of AFEs for projects which exceeded \$500,000 for production.

**REQUEST FOR PRODUCTION NO. 130**

Please produce documents, including but not limited to AFEs, construction plans, engineering estimates, bid tabs, contractor invoices, and construction specifications for any projects that a carrier other than CSXT has undertaken in the SARR States since January 1, 2007 for which CSXT paid for some or all of the project, including, but not limited to, any construction within the boundaries of Conrail Shared Assets Areas.

**Response:**

CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and burdensome. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce a list of AFEs from which M&G can select a reasonable number for production.

**REQUEST FOR PRODUCTION NO. 131**

Please produce documents sufficient to show the following information for each tunnel located on any portion of the CSXT system in the SARR States:

- a. Location, i.e., line segment name and number;
- b. Beginning and ending mileposts;
- c. Length (in feet);
- d. Height above the rail (in feet);
- e. Number of tracks in the tunnel;
- f. Method, time period and cost of construction; and
- g. Maintenance costs for each year or partial year 2007 to the present.

**Response:**

CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome, in part because it seeks documents dating from 2007. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession created from 2008 through the filing of the Complaint, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 132**

Please produce documents sufficient to show the tunnels or former tunnels located on CSXT's system in the SARR States that have been constructed or removed (by daylighting or other means) by CSXT since 2000, detailing location (line segment and milepost), length, number of tracks in the tunnel, method and time period of construction, and the cost per linear foot to construct or remove the tunnel. If no cost data is available for any such tunnels, please produce documents sufficient to show the cost per linear foot of any tunnel construction or removal performed anywhere on CSXT's system since 2000.

**Response:**

CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome, in part because it seeks documents dating from 2000. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession covering the period of 2008 to the present, to the extent they exist.

#### **REQUEST FOR PRODUCTION NO. 133**

Please produce bridge lists or other documents detailing the following information for all bridges located on CSXT's system in the SARR States:

- a. Location (milepost, division and subdivision);
- b. Type;
- c. Number of tracks;
- d. Total length;
- e. Number of spans;
- f. Type(s) of spans;
- g. Length of each span;
- h. Load rating;
- i. Clearances;
- j. Height;
- k. Skew;
- l. Curvature
- m. A description of what is being crossed (e.g., name of body of water, highway or road (including name or number), navigable waterway, etc.);
- n. Whether or not it is a movable bridge; and
- o. Whether or not it is in service.

#### **Response:**

CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this objection and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they exist.

#### **REQUEST FOR PRODUCTION NO. 134**

Please produce documents sufficient to show the following information related to the construction or replacement, in part or in whole, of each bridge on CSXT's system in the SARR States from 2004 to the present:

- a. The location of the bridge, by line segment and milepost;

- b. The design for each bridge;
- c. An itemized listing of the bridge components being constructed or replaced (including quantities);
- d. The estimated cost, by component, for each of the components (identified in response to Subpart c. above) being constructed or replaced;
- e. The actual cost, by component, for each of the components (identified in response to Subpart c. above) being constructed or replaced;
- f. The total cost of the bridge;
- g. The total length of the bridge;
- h. Whether the project was new construction or rehabilitation;
- i. Whether or not the project was performed "under traffic", i.e., traffic continued to move through the construction area;
- j. All costs incurred as a function of performing the project under traffic, e.g., flagging costs, temporary signal costs, realignments, delays and all other costs that would not be incurred if the bridge was new construction;
- k. The construction documents and contracts for the construction and/or rehabilitation; and
- l. Any cost sharing between CSXT and another entity.

**Response:**

CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome. Producing all the requested information for each of the many bridges CSXT has replaced since 2004 would be a severely burdensome undertaking. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce a list of AFEs from which M&G can select a reasonable number of AFEs related to bridge construction or replacement for production.

**REQUEST FOR PRODUCTION NO. 135**

Please produce documents listing the items, the cost of each item and the quantity of each item installed on CSXT's system related to the construction and (during each of the years 2007 to the present) operation of the centralized traffic control signal system(s) or any other traffic control system in use on the CSXT system. Please indicate whether the costs include additional services such as installation, design planning, electrical drops for utilities, and/or transportation. If the costs for additional services are not included, please provide each cost separately for the additional services.

**Response:**

CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce a list of AFEs from which M&G can select a reasonable number of AFEs related to traffic control systems for production.

**REQUEST FOR PRODUCTION NO. 136**

Please produce documents containing the following information for each CSXT communications site (defined as a location with a microwave tower, a land mobile radio ("LMR") tower, a tower used for both purposes, or a location where communications equipment (microwave or LMR) is located that does not include a tower) located in the SARR States:

- a. The number of microwave towers, LMR towers, combined towers, or other communications equipment location (shown separately for each category);
- b. The latitude and longitude coordinates of each tower or other communications equipment location;
- c. The height of each tower in feet above the ground and also in feet above sea level;
- d. The number of microwave antennae on each tower and the status of each antenna (i.e., whether it is operational);
- e. The number of LMR antennae on each tower and the status of each antenna (i.e., whether it is operational);
- f. The latitude and longitude coordinates of other communications sites that can link via microwave or radio from this site or a topological map of the communication system; and
- g. The acres of land owned or leased by CSXT for these sites and the cost of purchase or lease.

**Response:**

CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without

waiving this objection and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 137**

Please produce documents sufficient to show:

- a. CSXT's specifications for the construction of communications sites (as defined in Request for Production No. 136 above);
- b. Identification and total number of CSXT route miles in the SARR States that are covered by microwave communications;
- c. Identification and total number of CSXT route miles in the SARR States that are not covered by microwave communications;
- d. The cost, manufacturer and model number of each item and the quantities used for the construction and operation of the microwave radio and/or land mobile radio communications system on the CSXT system during each of the years 2007 to the present; and
- e. The annual spot maintenance costs incurred by CSXT for the microwave and/or land mobile radio tower communications system per tower and by device type, in the SARR States, as well as the overall spot maintenance costs systemwide.

**Response:**

CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome, in part because it is not limited to a reasonable scope of time and instead seeks information since 2007. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession from 2008 to the filing of the Complaint that can be located after a reasonable search.

#### REQUEST FOR PRODUCTION NO. 138

Please produce documents in a computer readable format, if available, containing the following information for each CSXT at-grade and grade-separated highway crossing on the CSXT system in the SARR States:

- a. Geographic location, *i.e.*, city, county and state;
- b. Rail location, *i.e.*, railroad, line name, division, subdivision and milepost;
- c. Whether public or private;
- d. Name of road being crossed;
- e. Width;
- f. Length;
- g. Type of construction;
- h. Number of tracks;
- i. Type of protective devices;
- j. Date of initial installation at the location;
- k. Total cost of the initial installation and the amount borne by CSXT, if any; and
- l. Identification of the party responsible for ongoing maintenance of any such structures.

#### Response:

CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome in that it seeks information on “cost” and “date of initial installation” without any date limitation. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

#### REQUEST FOR PRODUCTION NO. 139

For each year 2007 to the present, please produce documents that contain the following information with regard to the CSXT system's highway and at-grade railroad crossings:

- a. The various sizes, compositions and costs per linear foot (installed) of a one-lane private road crossing over a single line of track;
- b. The various sizes, compositions and costs per linear foot (installed) of a two-lane public highway crossing over a single line of track;

- c. The various sizes, compositions and costs per linear foot (installed) of a four-lane public highway crossing over a single line of track;
- d. The installed cost of signs for a private road crossing (if necessary);
- e. The installed cost of signs for a public highway crossing;
- f. The installed cost of each of the different types of protective devices identified in the response to Subpart (i) of Request For Production No. 138;
- g. A list identifying each component required for an automatic type interlocking (assuming a diamond crossing);
- h. The cost of each of the components identified in response to Subpart (g) above and the cost of installation for each year or partial year 2007 to the present;
- i. The costs for a 16-foot and 24-foot cattle guard and the cost of installation for each year or partial year 2007 to the present; and
- j. Any additional costs incurred.

**Response:**

CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome in that it seeks documents dating from 2007. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession created from 2008 through the filing of the Complaint, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 140**

For each highway crossing identified in response to Request for Production No. 138, please provide documents, for each year or partial year 2007 to the present, that show separately for each crossing, any monies received by CSXT from any other party to compensate CSXT for the use of the crossing, including, but not limited to, monies for construction, maintenance and easement payments.

**Response:**

CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to



this Request as overbroad and unduly burdensome, in part because it is not limited to a reasonable scope of time and instead seeks information since 2007. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession from 2008 to the filing of the Complaint that can be located after a reasonable search.

**REQUEST FOR PRODUCTION NO. 141**

Please produce documents containing the following information with regard to CSXT's hot bearing and dragging/failed equipment detectors ("FED"):

- a. The criteria for determining the appropriate spacing of the devices along CSXT's main lines;
- b. The location of FEDs for the portion of CSXT's system in the SARR States; and
- c. The cost of FEDs for each year 2007 to the present.

**Response:**

CSXT objects to this Request as overbroad and unduly burdensome in that it seeks documents dating from 2007. Subject to and without waiving this objection and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession created from 2008 through the filing of the Complaint, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 142**

Please produce documents sufficient to describe the specifications, functions, operation and costs, during each of the years 2007 to the present, of any communications system equipment other than microwave towers used to transmit data from devices such as mobile two-way radios, portable (hand-held) two-way radios, FEDs, AEI scanners and EOTDs across all or any part of the CSXT system.

**Response:**

CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to

this Request as overbroad and unduly burdensome in that it seeks documents dating from 2007.

Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession created from 2008 through the filing of the Complaint that can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 143**

Please produce documents sufficient to show:

- a. The locations and quantities of fiber optic cabling installed on CSXT rights-of-way in the SARR States;
- b. The bandwidth capacity of the fiber optic cabling identified in Subpart (a);
- c. The entity that owns and operates the fiber optic cabling identified in Subpart (a);
- d. The costs to CSXT, if any, for installing the fiber optic cable identified in Subpart (a);
- e. Whether CSXT is permitted to use the fiber optic cable identified in Subpart (a); and
- f. The amount, if any, CSXT pays the carriers for use of the fiber optic cable identified in Subpart (e).

**Response:**

CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this objection and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 144**

If CSXT utilizes the fiber optic cable(s) identified in response to Request for Production No.143, please provide documents sufficient to show:

- a. An identification, and the total number, of CSXT route miles in the SARR States that are covered by fiber optic backbone communications;

- b. The cost, manufacturer and model number of each item and the quantities used for the construction and operation of the fiber optic communications system on the CSXT system during each of the years 2007 to the present; and
- c. The annual spot maintenance costs incurred by CSXT for the fiber optic communications system and by device type, in the SARR States, as well as the overall spot maintenance costs systemwide for each of the years 2007 to the present.

**Response:**

CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to the undefined term “fiber optic backbone communications” as vague and ambiguous. CSXT also objects to this Request as overbroad and unduly burdensome in that it seeks documents dating from 2007. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession created from 2008 through the filing of the Complaint, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 145**

Please provide documents identifying each electrical connection in the SARR States that is used to provide power to devices including, but not limited to, the CTC system and other signal devices, hot box detectors, failed equipment detectors, powered road crossings, warning devices and power switches, and provide the following for each such connection:

- a. The location of the connection by line segment and milepost;
- b. The source of the electricity;
- c. The amount CSXT paid for each connection and the date; and
- d. CSXT costs for each billing period from 2008 to the present.

**Response:**

CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this objection and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 146**

Please produce documents sufficient to show the location, linear feet, and type of fencing (e.g., snow fence), cost per foot and year installed for all fencing currently in place on the portion of the CSXT system in the SARR States.

**Response:**

CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as unduly burdensome. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 147**

Under *Alternative Methods of Accounting for Railroad Track Structures*, 367 I.C.C. 157, 180 (1983), CSXT is required to submit a standard "unit of property" that distinguishes between when a certain cost should be expensed or capitalized. Please produce CSXT's most recent, STB approved property "unit of property" and the supporting information and data for those units.

**Response:**

Subject to and without waiving the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession sufficient to show CSXT's capitalization policy.

**REQUEST FOR PRODUCTION NO. 148**

Please produce an unredacted and fully executed copy of CSXT's Positive Train Control Implementation Plan filed with the Federal Railroad Administration as required by 49 CFR §236.1009(a) and §236.1011.

**Response:**

CSXT specifically objects to this Request to the extent it calls for disclosure of Sensitive Security Information ("SSI"). CSXT further objects to this Request as unduly burdensome because the non-SSI information indicated by the request is publicly available to M&G. CSXT also objects to M&G's demand for a "fully executed" copy as burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving these objections and the General Objections, CSXT states that it will produce responsive documents with SSI materials redacted.

**REQUEST FOR PRODUCTION NO. 149**

Please provide all studies, analyses, detailed plans and estimates developing CSXT's estimated costs to design, install and maintain the Positive Train Control system detailed in CSXT's Positive Train Control Implementation Plan filed with the Federal Railroad Administration on April 16, 2010.

**Response:**

CSXT specifically objects to this Request to the extent it calls for disclosure of Sensitive Security Information ("SSI"). CSXT further objects to this Request as overbroad and unduly burdensome to the extent it requests "all studies, analyses, detailed plans and estimates." Subject to and without waiving these objections and the General Objections, CSXT states that it will

produce non-privileged, responsive documents with SSI materials redacted to the extent they exist and can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 150**

Please provide all documents showing CSXT's use of funds from the following debt issuances, including, but not limited to, any and all locomotives acquired with the funds:

- a. 6.251% Secured Equipment Notes due January 15, 2023,
- b. 8.375% Secured Equipment Notes due April 15, 2014

**Response:**

CSXT specifically objects to this Request as overbroad and unduly burdensome to the extent it requests "all" documents showing CSXT's use of funds from these debt issuances. Subject to and without waiving these objections and the General Objections, CSXT states that it will produce non-privileged, responsive documents sufficient to show CSXT's use of funds from the identified debt issuances, to the extent they exist and can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 151**

Please provide documents related to the amount of Bonus Depreciation claimed by CSX separately for 2008 and 2009 on CSX's Federal Tax Returns in Schedule 4562. The amount should be separated by asset class and include the historical cost recorded for the assets related to the claimed bonus depreciation, including all schedules and worksheets showing the calculation and development of bonus depreciation allowed under the Economic Stimulus Act of 2008 and the American Reinvestment and Recovery Act.

**Response:**

CSXT objects to this Request as overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. CSXT's federal tax returns contain sensitive commercial information and are not relevant to a Stand alone Cost analysis. Indeed, the bonus depreciation provisions referenced in this Request expired in 2009, and could not be claimed by a Stand Alone Railroad beginning operations in 2010.

## REQUEST FOR PRODUCTION NO. 152

Please provide the following confidential and highly confidential documents that CSXT produced to the complainant in STB Docket NOR No. 42110, Seminole Electric Cooperative, Inc. v. CSX Transportation, Inc.:

- a. RTC data provided in discovery (if any).
- b. RTC data included in CSXT's Reply.
- c. All CSXT databases provided in discovery.
- d. All CSXT databases included in CSXT's Reply.
- e. Explanatory information for all CSXT databases provided in discovery (record layouts, field descriptions, data explanations, etc.).
- f. Explanatory information for all CSXT databases included in CSXT's reply (record layouts, field descriptions, data explanations, etc.).
- g. Construction cost and quantity data provided in discovery.
- h. Construction cost and quantity data included in CSXT's Reply.
- i. Operating and non-operating personnel data provided in discovery.
- j. Operating and non-operating personnel data included in CSXT's Reply.
- k. Maintenance of way data provided in discovery.
- l. Maintenance of way data included in CSXT's Reply.
- m. Agreements between CSXT and CSXI and all billing/invoices associated with these Agreements including workpapers supporting all bills/invoices.
- n. Agreements between CSXT and Norfolk Southern Railway Company ("NS") or their affiliates, and any amendments thereto, implementing CSXT's access to the MGA coal region.
- o. All documents provided in discovery related to donated rights of way and/or land grants (including easements) obtained by CSXT or CSXT's predecessors in connection with the construction of any rail lines or facilities, including the type of information requested by M&G in RFP #121.

### Response:

CSXT objects to this Request because it seeks documents and information from a prior case, without any effort to limit the request to information that is relevant to the present case. CSXT further objects to this request as overbroad, and seeking information lacking relevance to issues in this case. Most of the voluminous discovery record and confidential and highly confidential evidence in an entirely different case have no relevance to this case. Further, CSXT objects that to the extent that evidence or information produced in a prior case may be relevant to matters properly at issue in this case, such information is certainly encompassed by M&G's many other discovery requests. CSXT further objects that it could not comply with this

extraordinary Request without disclosing information that Seminole Electric Cooperative, Inc. designated as Highly Confidential and violating the Board's Protective Order in that proceeding.

REQUEST FOR PRODUCTION NO. 153

Please provide the following CSX Geographic/Geospatial Information System (GIS) data. The ("GIS") data should be viewable, readable, and writable with no access limitations. The GIS data should be able to be read using current off the shelf (COTS) software, using either ESRI ArcView (ArcGIS) or MapInfo Pro (MapInfo / PitneyBowes):

- a. Map Projections defined per layer;
- b. GIS files associated with and/or created by the GIS software system, to include:
  1. In their original vector, or other, file format to include file types such as:  
For ESRI application software:
    - a) .shp (shape files, feature geometry)
    - b) .shx (shape file indexes)
    - c) .dbf (attribute format)
    - d) .prj (projection format)
    - e) .sbn, .sbx (spatial indexes of features)
    - f) .fbn, .fbx (spatial index of features)
    - g) .ixs (geocoding indexes)
    - h) .mxs (geocoding indexes)
    - i) .atx (attribute index)
    - j) .shp.xml (metadata in xml)
    - k) .cpg (code page)
  2. For MapInfo application software:
    - a) .dat (attribute data)
    - b) .tab (MapInfo table, stores types of data)
    - c) .id (stores links to graphic and database information)
    - d) .map (stores graphic and geographic information)
    - e) .ind (index files)
  - 
  3. For other GIS systems: provide native files.
- c. Map data geocoded to a standard available coordinate system;
- d. Map data associated to latitude and longitude coordinates without limits placed on decimal accuracy; and



- e. Map Layers (either separate object layers, or in layers with each object having attributes defining the item's entity type and attributes)
1. Track detail
    - a) Rail stations and/or nodes (an entity with all attributes)
    - b) Rail segments and/or links between nodes (an entity with all attributes)
    - c) Siding (an entity with all attributes)
    - d) Grade (an entity, or attributes associated to track)
    - e) Curves (an entity, or attributes associated to track)
    - f) Mileposts (an entity, with a unique identifier, milepost name, milepost code, latitude and longitude coordinates with no limits on geocoded coordinate decimal values) that match the mileposts in the transactional "Event" data provided in response to Request For Production Nos. 21 and 22
    - g) Elevation in feet above sea level per rail node/milepost
    - h) Time tables
    - i) Signals
  2. Mileage between track nodes;
  3. Land parcels; and
  4. Terminals (including, but not limited to, CSXT rail yards, Automotive Distribution Centers, Transflo facilities and intermodal facilities).

**Response:**

CSXT objects to this overbroad and extraordinarily burdensome demand that CSXT produce system-wide GIS data that accords with M&G's exacting data specifications. CSXT further objects to this Request to the extent that it is duplicative of other requests requesting similar information, including M&G's many requests for information about the track, grade, curves, stations, and yards of virtually CSXT's entire system. Subject to these objections and the General Objections, CSXT states that it is investigating potential mechanisms to produce the massive volume of GIS data requested by M&G, and that CSXT will inform M&G's counsel of what data is feasible to produce.

**REQUEST FOR PRODUCTION NO. 154**

Please provide a copy of or access to the CSX Track Chart and Engineering Information System ("System") or any replacement system. Also, please provide instructions on how

to use the System to access the component parts of the System as identified in Interrogatory No. 22. If the System has been revised or updated since the September 10, 2000 paper referred to Interrogatory No. 22 and is currently called something else, please provide a copy of or access to the revised or updated system and the appropriate instruction on how to use the revised or updated system.

**Response:**

CSXT objects to this Request because it requires CSXT to produce software in potential violation of applicable software licensing agreements and copyright laws. CSXT also objects to this Request because it calls for production of commercially available software or equivalents of such software that can be acquired from other sources. CSXT further objects because M&G's request that CSXT produce software is not reasonably calculated to lead to the discovery of admissible evidence.

**REQUEST FOR PRODUCTION NO. 155**

For each subpart of Interrogatory #25, if CSXT answered in the affirmative, then produce the information and/or data in a computer-readable format to the extent not already produced in reply to any other Interrogatory or Request for Production.

**Response:**

CSXT reiterates the specific objections in its Response to Interrogatory No. 25. Furthermore, for each subpart of Interrogatory No. 25, CSXT reiterates the objections and responses it made to the discovery requests referenced in that subpart. Subject to and without waiving these objections or the General Objections, CSXT states that it will interpret the vague and undefined term "computer-readable format" to mean data that is maintained in formats accessible by standard commercially available software. CSXT's production of information responsive to the discovery requests named in Interrogatory No. 25 will include information in computer-readable format to the extent that information maintained in that format can be identified in a reasonable search.

#### **REQUEST FOR PRODUCTION NO. 156**

Please produce all transportation contracts, including all amendments and supplements thereto (or letters of understanding with appendices or attachments), and all tariffs, common carrier pricing authorities, or other documents containing common carrier rate and service terms (collectively “pricing authorities”), entered into, agreed to, or established or provided by CSXI which govern shipments handled by CSXT as originating, terminating, overhead, or single-line carrier to, from, or through any of the SARR States in any of the years 2008 and beyond. For each pricing authority, please provide the traffic volumes and revenues associated with the movement of traffic under each pricing authority by traffic group (e.g., coal, agricultural, intermodal, etc.) and year for 2008 through the present.

#### **Response:**

CSXT objects to this Request as unduly burdensome and overbroad. M&G’s request for production of “all” contracts creates a significant burden on CSXT both to identify those contracts with provisions requiring notification of the customer before the contract may be disclosed in discovery and to provide appropriate notice to such customers. Moreover, CSXT objects to M&G’s illogical request for “tariffs, common carrier pricing authorities, or other documents containing common carrier rate and service terms . . . entered into, agreed to, or established or provided by CSXI.” CSXI was not a common carrier and did not enter into or establish any such common carrier rates or terms. CSXT further objects to the extent that CSXI no longer exists. Subject to and without waiving these objections or the General Objections, CSXT refers M&G to CSXT’s Response to Request for Production No. 29.

#### **REQUEST FOR PRODUCTION NO. 157**

Please produce all forecasts and all documents related to forecasts or projections prepared by or for CSXI from 2008 through the present, or in CSXI’s possession, of future traffic volumes and/or revenues for freight traffic by traffic group (including any breakdowns of any such forecasts or projections whether by commodity classification, geographic region, line segment, or any other category) moving over any portion of the CSXT system located in any of the SARR States. Documents responsive to this request include, but are not limited to, traffic projections prepared in connection with engineering studies, authorization for expenditures, marketing studies, operating expense budgets, capital budgets, or mergers with or acquisitions of other carriers.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to the request for production of “all” documents as overbroad and unduly burdensome. CSXT also specifically objects to M&G’s request for all forecasts created since 2008 because CSXT does not maintain historical forecasts in a readily accessible format. CSXT also objects to M&G’s overbroad and unduly burdensome request for all documents “related to” forecasts. CSXT further objects to M&G’s request for outdated 2008 forecast data as irrelevant and unduly burdensome. CSXT also objects on the grounds that CSXI no longer exists. Subject to and without waiving these objections or the General Objections, CSXT refers M&G to CSXT’s Response to Request for Production No. 30.

**REQUEST FOR PRODUCTION NO. 158**

Please produce copies of any documents, reports, analyses, or studies provided to any Federal or state agencies which discuss or describe CSXI’s and/or TRANSFLO’s compliance with regulations for handling, routing, or proposed routing of hazardous materials.

**Response:**

CSXT specifically objects to this Request for Production to the extent it calls for disclosure of Sensitive Security Information (“SSI”). CSXT further objects to this Request as seeking information that is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. M&G’s vague request for any “documents, reports, analyses or studies” created at any time that discuss or describe CSXI’s or TRANSFLO’s compliance with federal regulations has no conceivable relevance to the issues in this case. CSXT also refers M&G to CSXT’s Response to Request for Production No. 70.

#### **REQUEST FOR PRODUCTION NO. 159**

Please produce all CSXI railcar maintenance agreements with outside contractors, including all supplements, attachments, exhibits, and schedules, for each year or partial year 2006 to the present, for all CSXI cars moving on CSXT's system. Also provide the documents identifying (a) the dollar amount paid for each service performed under the agreement by individual car or by car type; and (b) the number of car-miles corresponding to the amounts referenced in Request for Production No. 159, subpart a.

#### **Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT also objects to this Request as overbroad and unduly burdensome. CSXT further objects on the grounds that CSXI no longer exists. Subject to and without waiving these specific objections or the General Objections, CSXT refers M&G to CSXT's Response to Request for Production No. 87.

#### **REQUEST FOR PRODUCTION NO. 160**

Please provide information related to any liability expense incurred as a result of CSXI's and/or TRANSFLO's handling hazardous materials for each year 2007 to the present. For each liability expense incurred, please provide the following:

- a. The total amount of the liability expense;
- b. The STCC of hazardous material involved with the incurrence of the expense;
- c. The number of rail cars, containers, or trailers involved with the incurrence of the expense; and
- d. Any reimbursement of all or a portion of the liability expense, or other reimbursement which offset all or a portion of the liability expense received by CSXI and/or TRANSFLO from any third party.

#### **Response:**

CSXT objects to this Request as overbroad and unduly burdensome, in part because it is not limited to a reasonable scope of time and instead seeks information since 2007. CSXT further objects to this Request on the grounds that CSXI no longer exists. Subject to and without

waiving these specific objections or the General Objections, CSXT refers M&G to CSXT's

Response to Request for Production No. 102.

**REQUEST FOR PRODUCTION NO. 161**

Please provide information related to any additional operating or administrative expenses incurred by CSXI and/or TRANSFLO for each year from 2008 to the present as a result of handling hazardous materials, including, but not limited to, items such as switching expenses, insurance expenses, station clerical, car, container or trailer cleaning expenses, accident clean-up expenses, and/or billing expenses. For each expense identified, please provide:

- a. The total amount of the annual expense for each year;
- b. The class or classes of hazardous material to which the expense applies; and
- c. The number of annual carloads handled each year to which the expense applies.

**Response:**

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request on the grounds that CSXI no longer exists. Subject to and without waiving these specific objections or the General Objections, CSXT refers M&G to CSXT's Response to Request for Production No. 103.

**REQUEST FOR PRODUCTION NO. 162<sup>1</sup>**

Please provide copies of CSX's 2008 and 2009 state income tax returns for the SARR States, including all state tax credit worksheets.

**Response:**

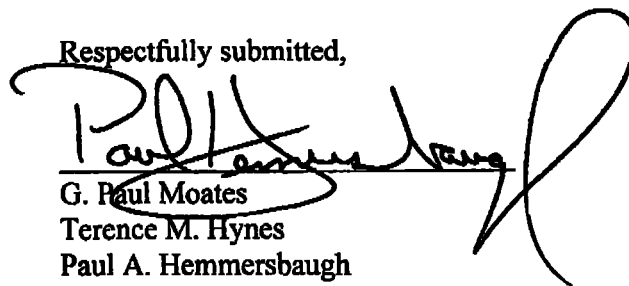
CSXT objects to this Request as overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. CSXT's state income tax returns contain sensitive commercial information and are not relevant to a Stand Alone Cost analysis.

---

<sup>1</sup> M&G's Discovery Requests contained two separate Requests for Production numbered "161." CSXT is treating the second of these Requests as RFP No. 162.

Peter J. Shudtz  
Paul R. Hitchcock  
John P. Patelli  
Kathryn R. Barney  
CSX Transportation Inc.  
500 Water Street  
Jacksonville, FL 32202

Respectfully submitted,

A large, stylized handwritten signature in black ink, which appears to read "G. Paul Moates". The signature is written over a horizontal line.

G. Paul Moates  
Terence M. Hynes  
Paul A. Hemmersbaugh  
Matthew J. Warren  
Noah A. Clements  
Sidley Austin LLP  
1501 K Street, N.W.  
Washington, D.C. 20005  
(202) 736-8000  
(202) 736-8711 (fax)

*Counsel to CSX Transportation, Inc.*

Dated: August 25, 2010

## **CERTIFICATE OF SERVICE**

I hereby certify that on this 25th day of August, 2010, I caused a copy of the foregoing Responses and Objections of CSX Transportation, Inc. to Complainant's First Requests for Admission, Interrogatories, and Requests for Production of Documents to be served on the following parties by first class mail, postage prepaid or more expeditious method of delivery:

Jeffrey O. Moreno  
Sandra L. Brown  
David E. Benz  
Thompson Hine LLP  
1920 N Street, NW, Suite 800  
Washington, DC 20036



Eva Mozena Brandon